NOMINATION

HEARING

BEFORE THE

COMMITTEE ON
LABOR AND HUMAN RESOURCES
UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

SECOND SESSION

ON

GARY L. JONES, OF VIRGINIA, TO BE UNDER SECRETARY OF EDUCATION

JULY 19, 1982

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COMMITTEE ON LABOR AND HUMAN RESOURCES

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NOMINATION

MONDAY, JULY 19, 1982

U.S. SENATE,
COMMITTEE ON LABOR AND HUMAN RESOURCES,
Washington, D.C.

The committee met, pursuant to notice, at 10:45 a.m., in room 4232, Dirksen Senate Office Building, Senator Orrin G. Hatch (chairman of the committee) presiding.

Present: Senators Hatch, Stafford, and Eagleton.

Staff present: Howard A. Matthews, professional staff member.

The CHAIRMAN. I apologize for being late this morning. I was testifying before another committee.

We are happy to welcome you, Dr. Jones, before us today as the nominee of President Reagan and Secretary Bell to fill the vacancy in the Office of Under Secretary in the U.S. Department of Education. We are very pleased to have you here, and I understand your family is with you today.

Mr. JONES. That is correct.

The CHAIRMAN. Would you care to introduce them?

Mr. JONES. My wife, Barbara; my daughter, Julie; and my son, Gary.

The CHAIRMAN. That is great. We are happy to have you folks here. We are delighted you are with us.

Because it was only about 10 months ago that you were before this committee on a hearing for the position of Deputy Under Secretary, which you now hold, most of us are aware of your excellent background which prompted your nomination. For that reason, I will not take the time to go over it again.

We do want the record to show, however, that at the time of the previous hearing, you were a member of the board of education of Fairfax County, a position you were required by the administration to vacate, in order to be sworn in after confirmation by the Senate. Someone over there held that being on the school board constituted some sort of an "appearance of a conflict of interest," which I can no more agree with now than I could at that time.

I am pleased to note that I have received letters in support of your confirmation from my friend and colleague in the Senate, Mr. Paul Laxalt of Nevada, and from the Honorable Jack Kemp of the House. We also have in hand a letter from Governor William Milliken of your home State of Michigan, recommending your confirmation as Under Secretary. These letters will be made part of the record of this proceeding, without objection.

[The letters referred to follow:]

PAUL LAXALT
NEVADA

COMMITTEE ON APPROPRIATIONS
COMMITTEE ON JUDICIARY

United States Senate
WASHINGTON, D.C. 20510

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July 16, 1982

Dear Orrin:

You have before you the nomination by the President of Dr. Gary L. Jones to be Under Secretary of the U.S. Department of Education. I would like to offer my endorsement of Dr. Jones for that position.

I have nad the pleasure of working with Gary. He is that rare individual whose entire career appears to have prepared him for this position.

Dr. Jones has administered large organizations--with very large budgets--both at the MacArthur Foundation in Chicago and the American Enterprise Institute here in Washington. He's already served one year as the Deputy Under Secretary of Education for Planning, Budget and Evaluation.

Dr. Jones has served for over four years on the school board of Fairfax County, Virginia; the eleventh largest of America's 16,000 school districts.

Gary was Assistant Director of Admissions at Albion College in Michigan, so his professional experience ranges all the way from children in kindergarten through students attending postsecondary education institutions.

His own Masters and Doctorate degrees are in Administration and Higher Education. He's a member of the Case Western Reserve University Visiting Committee. He's a member of the Visiting Committee of the Gerald R. Ford Institute for Public Service. His service to the President and this Administration, and to individual members of the House of Representatives and the Senate, has been prompt, candid, and gracious.

I urge the confirmation of Dr. Gary L. Jones as Under Secretary of Education.

Sincerely,

Paul Laxalt

PAUL LAXALT
U. S. Senator

PL/kf

The Honorable Orrin Hatch
Chairman, Committee on Labor and
Human Resources
4230 Dirksen Office Building

JACK KEMP
30th District, New York

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Congress of the United States
House of Representatives
Washington, D.C. 20515

July 15, 1982

The Honorable Orrin Hatch
Chairman, Committee on Labor
and Human Resources
4230 Dirksen
Washington, D.C. 20510

Dear Mr. Chairman:

I would like to submit this statement to endorse Dr. Gary L. Jones, Under Secretary-designate, U.S. Department of Education, and urge his confirmation by your Committee.

I've known Gary since he served as Vice President of the American Enterprise Institute and know him to be a man of integrity and high character, besides being a friend.

He is well qualified for the position of Under Secretary of Education. Seldom will a man come to this position with such a blend of experience -- member of a public school board; executive of a private foundation and a private research institution; administrator at a liberal arts college; and an assistant to a former member of the U.S. House and Senate, Robert P. Griffin.

I heartily endorse his confirmation.

Sincerely,

JACK KEMP
Member of Congress

JK/emd

STATE OF MICHIGAN
OFFICE OF THE GOVERNOR
LANSING

WILLIAM G. MILLIKEN
GOVERNOR

July 16, 1982

The Honorable Orrin G. Hatch
Chairman
Senate Committee on Labor and
Human Resources
4230 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Hatch:

I understand that Dr. Gary L. Jones is coming before your committee on Monday, July 19 for confirmation as Under Secretary of the U.S. Department of Education.

Dr. Jones is a native of Michigan and I have known him for many years. His career has encompassed a distinguished research organization and the foundation world, school board experience, congressional staff service and work in private higher education. I believe this broad background makes Dr. Jones an outstanding choice for a position of high responsibility in the executive branch and I am pleased to recommend him to you.

Warm personal regards.

Sincerely,

William G. Milliken

Governor

The CHAIRMAN. Dr. Jones, we will also make your formal statement a part of the record, and with that I am going to turn over the gavel to Senator Stafford, who is the chairman of the Education Subcommittee, and take his statement at this time, and then turn to Senator Eagleton, and then Senator Stafford will conduct these proceedings.

Senator STAFFORD. Thank you very much, Senator. Let me join in welcoming, Dr. Jones and his family here this morning.

Today this committee is meeting to do more than just consider the nomination of Dr. Gary Jones to be Under Secretary of Education. Members also have the opportunity to express their views on the administration's conduct of educational policy.

As chairman of the Subcommittee on Education, Arts, and Humanities, I take very seriously my responsibility to act as a spokesman for America's students, many of whom have little power with which to make their views known. Therefore, this morning, before I ask Dr. Jones several questions, I want to express my concern over the direction of educational policy.

Since assuming office, the present administration has moved on several fronts to minimize the Federal role in education. That effort has taken several forms. Block grants have been proposed that would leave little identifiable Federal purpose. Spending reductions were requested that would have seriously weakened effective delivery programs. The suggested restructuring of the Department of Education into a foundation was only one tactic in a strategy aimed at backing the Federal Government out of any positive contribution, in my judgment, to our Nation's educational system. The proposal for tuition tax credits represented a dangerous diversion of dollars from an already-diminished educational budget.

As a member of the President's party and a supporter of many of his goals and objectives, I frankly have been chagrined at the nature and thrust of these proposals. Certainly, the Federal Government should not assume the policymaking authority of State and local education agencies. But neither should it, in my judgment, jettison programs that serve student populations which traditionally have not been well served by States and localities.

Obviously, Federal spending for education must bear its fair share of the necessary budget restraint. But it should not be reduced to a level insufficient to support successful and effective nationwide programs. Finally, while it might be advisable to redirect the activities of the Department of Education, it is unwise, again in the judgment of this senator, to redirect the department out of existence, especially before it has had a fair trial.

On this point in particular, I want Dr. Jones, if he will, to pay special attention. It is a Senate controlled by the Republican Party which has refused to endorse the Education Department's legislative program. Republicans in both the House and Senate have refused to backtrack on the fundamental Federal purpose of equality in and access to education. While differences might exist between the two political parties on the details of educational law, a remarkable degree of bipartisan agreement exists favoring a positive, identifiable, and sustained Federal contribution to our educational system.

Dr. Jones, if you are confirmed, please take this message to heart. Many Members of this body stand ready to cooperate with the President and Secretary Bell on building a responsible and nonintrusive response to our Nation's educational needs. Yet we will only respond to proposals that are designed to improve the Federal contribution, not eliminate it.

I hope, too, that you will keep this in mind Where the Department proposed ambitious block grants, Congress rejected these measures and responded with its own limited proposals. Where the administration requested significant damaging reductions in Federal aid to education, Congress drew the line and failed to accept further reductions. Where a foundation of educational assistance was floated, Congress sunk that idea even before formal legislative proposals could be made.

Having been frustrated on these fronts, it seems to this Senator that the administration may be aiming its sights within the Department of Education in order to achieve through the administrative process what it has failed to achieve by legislative means.

Whatever one's views on policy questions, there must be universal agreement on this principle: The laws of the land are to be faithfully executed. Congress, as an institution within our constitutional system, will not tolerate attempts to bend the law to suit political whims or color them with an ideological view.

A generation ago, our Nation perceived its national security at risk in the aftermath of the Sputnik launch. As a result, laws were enacted to improve our educational system in order to strengthen our national defense. Now, 25 years later, we are being asked to reduce our commitment to education in order to strengthen our national defense. This Senator fails to see the logic of that position and finds it impossible to conceive of a growing, modern, equitable, and successful educational system without the creative and tangible contribution of the Federal Government.

As you prepare to assume your new responsibilities, Dr. Jones, please understand that many of us in this body neither support the status quo nor are anxious to turn back the clock. Education, by its very nature, is a dynamic, changing process. We stand ready to support proposals that would contribute to that dynamism and change. Yet, if the administration continues to frustrate that process, too many children will take half-steps forward instead of full strides into the future.

With that said, we look forward to your response and to working with you constructively in the future. I might say, doctor, since I know you had a career, at least part way, in baseball, that instead of throwing you any curves this morning, I simply tried to put them right over the plate. In my own experience with baseball, I failed to recognize curves and as a result got hit in the stomach and that was the end of my baseball career.

Before I yield the floor, the chairman, quite appropriately, has put a number of letters in the record supporting your candidacy. In my case, I have a letter from the National Education Association, signed by its director of government relations, which is opposed, as

you probably know or would anticipate, to your being confirmed as Under Secretary of Education. I ask, Mr. Chairman, that this be made a part of the hearing record.

The CHAIRMAN. Without objection, it will be entered into the record.

[The letter referred to follows:]

nea
NATIONAL EDUCATION ASSOCIATION • 1201 16th St., N.W., Washington D C 20036 • (202) 822-7300
WILLARD H. McGUIRE, President
BERNIE FREITAG, Vice President
MARY HATWOOD FUTRELL, Secretary-Treasurer

GOVERNMENT RELATIONS
LINDA TARR-WHELAN, Director
TERRY HERNDON, Executive Director

July 16, 1982

The Honorable Robert T. Stafford
Committee on Labor and Human Resources
United States Senate
Washington, D.C. 20510

Dear Senator Stafford:

The National Education Association--the nation's largest organization of teachers and others in the field of education--opposes the confirmation of Gary Jones as Under Secretary of Education.

A critical and responsible federal role in American public education has evolved over the past two hundred years. Its beginnings were virtually simultaneous with those of our nation. Since those early days, that role has been expanded and refined. At each and every step of the way, new generations of American political leaders, elected by the people, have sought to improve the quality of American life by improving the quality of the education we provide our youth.

Today, our nation's historic devotion to that principle is being attacked by a different breed of political leaders, people who believe that public education is not a basic right, who believe that the federal government is a hindrance rather than a help.

This climate makes it all the more imperative that federal education officials be firmly committed to the active participation of the federal government in the maintenance and improvement of the quality of education provided America's children and to the provision of equal and unrestricted educational opportunity.

Unfortunately, Gary Jones has not demonstrated the sensitivity, the understanding, or the commitment that is essential in an Under Secretary of Education. His philosophy and his actions run directly counter to those demanded by the position of Under Secretary, by those mandated by statute, by those expected by Members of Congress, and by those needed and deserved by people of the United States.

We urge the Committee on Labor and Human Resources to reject his nomination.

Sincerely,

Linda Tarr-Whelan

Linda Tarr-Whelan
Director of Government Relations

LT-W/sb

The CHAIRMAN. Senator Eagleton?

Senator EAGLETON. Thank you, Mr. Chairman. I have no prepared opening statement. I simply will identify myself with the opening statement as eloquently delivered by Senator Stafford, and I will have a series of questions that I will propound to the nominee.

The CHAIRMAN. That will be fine. We will keep the record open until the end of the business day for any written questions that anybody on the full committee, and certainly on the Education Subcommittee, desires to submit to you, Dr. Jones. I have a number of questions that I am going to submit in writing to you, because I have to get to the floor. But we hope you will answer those as quickly as you can, so we can complete this record and move ahead with your confirmation as quickly as we possibly can.

Mr. JONES. Thank you, sir.

The CHAIRMAN. With that, I am going to turn the gavel over to Senator Stafford, our subcommittee chairman, and go over to the floor. Thank you. It is nice to have you here.

Senator STAFFORD. Dr. Jones, now I guess it is your turn to throw a few over the plate, if you wish to do so. We will be glad to hear your opening statement.

STATEMENT OF GARY L. JONES, NOMINEE FOR UNDER SECRETARY, U.S. DEPARTMENT OF EDUCATION

Mr. JONES. I do have a prepared statement, Senator, but I will just submit that for the record.

There are comments you made that I would like to address, either at this point or some time this morning. But just at first blush, let me respond to your chagrin at some of the initiatives the administration has taken. I regret that you feel that way, Senator, principally because I think most people in this town have looked upon most of the initiatives in education from this administration purely from a budgetary standpoint. It is true that we have made suggestions for reductions in the budget, but it is also true, I think, that this administration has come forward in the last 18 months with more new ideas in the area of education than most administrations ever have in such a short period of time.

We are simply suggesting that when we do submit these new ideas, Congress take a look at them and consider them, and maybe change them by amendment or dispose of them. But at this point in time, it seems as if everything has been hinging upon one's perception of the administration's budget, as opposed to the perception of its ideas that it is submitting in legislation.

I am a strong advocate of tuition tax credits. I do not believe it is detracting from the public school sector. If anything, I think it can strengthen the public school sector. We differ there.

You indicated that the Foundation for Education Assistance that we have contemplated is a tactic to back the Federal Government out of education. I do not accept that assessment. While to a certain degree spending reductions could weaken delivery programs, it is our assessment that the budget suggestions we have submitted to Congress would not unfairly weaken those delivery programs.

I am prepared to respond to any questions the committee has.

[The prepared statement of Mr. Jones follows:]

DR. GARY L. JONES
U.S. SENATE CONFIRMATION
COMMITTEE ON LABOR AND HUMAN RESOURCES
SUBCOMMITTEE ON EDUCATION, ARTS, AND HUMANITIES
JULY 19, 1982

THANK YOU, MR. CHAIRMAN. I APPEARED BEFORE YOU GENTLEMEN TEN MONTHS AGO FOR MY CONFIRMATION HEARING AS DEPUTY UNDER SECRETARY OF EDUCATION FOR PLANNING, BUDGET AND EVALUATION. WE DISCUSSED THE IMPLICATIONS RAISED BY NEW DATA THAT'S FLOWING INTO THE DEPARTMENT OF EDUCATION FROM THE CENSUS BUREAU THESE DAYS; THE DECLINE IN SCHOOL ENROLLMENT -- PUBLIC AND PRIVATE -- AT THE GRADE SCHOOL, THE JUNIOR HIGH SCHOOL, AND THE HIGH SCHOOL LEVEL OVER THE LAST DECADE ALONE. WE NOTED THE LEGACY OF THIS DECLINE IS BOTH SUBSTANTIVE AND SIZEABLE.

WE MENTIONED CITY AND COUNTY GOVERNMENTS FROM NEW ENGLAND TO CALIFORNIA CLOSED THE DOORS OF SCHOOLS THAT NO LONGER HAD ENOUGH STUDENTS TO JUSTIFY THEIR MAINTENANCE. AND, SINCE DECLINING NUMBERS OF YOUNG PEOPLE MEAN LESS DEMAND FOR TEACHERS, WE TOOK NOTE OF THE INCREASING NUMBER OF COLLEGES AND UNIVERSITIES ACROSS THE COUNTRY THAT HAD CLOSED THEIR TEACHER TRAINING FACILITIES.

YOU MAY BE INTERESTED IN THE NEW DATA ON ENROLLMENT DECLINE BETWEEN 1971 AND 1981 IN AMERICA'S LARGER SCHOOL SYSTEMS. ACCORDING TO EDUCATION RESEARCH SERVICE:

- o ENROLLMENTS IN PUBLIC ELEMENTARY, JUNIOR HIGH AND HIGH SCHOOLS IN NEW YORK CITY DECLINED 18 PERCENT BETWEEN 1971 AND 1981;
- o IN LOS ANGELES, ENROLLMENT DROPPED 16 PERCENT;
- o IN CHICAGO, ENROLLMENT WAS DOWN 23 PERCENT;

- o PUBLIC SCHOOL ENROLLMENT BETWEEN 1971 AND 1981 WAS DOWN 28 PERCENT IN PHILADELPHIA, 18 PERCENT IN HOUSTON, 25 PERCENT IN DALLAS, 37 PERCENT IN BALTIMORE;

- o DOWN 30 PERCENT IN MEMPHIS, 26 PERCENT IN MONTGOMERY COUNTY, MARYLAND, 30 PERCENT IN PRINCE GEORGES COUNTY, MARYLAND, AND 37 PERCENT IN MILWAUKEE;

- o DOWN 48 PERCENT IN CLEVELAND, 39 PERCENT IN BOSTON, 38 PERCENT IN DENVER, AND 46 PERCENT IN INDIANAPOLIS.

IN SHORT, THIS IS -- IN LARGE MEASURE -- WHY SCHOOLS CLOSED BETWEEN 1971 AND 1981. THIS IS WHY -- AGAIN, IN LARGE MEASURE -- TEACHERS HAVE BEEN, AND ARE BEING LET GO. THIS IS WHY COLLEGES OF EDUCATION IN OUR NATION'S UNIVERSITIES HAVE CLOSED.

BY WAY OF BACKGROUND, THE UNITED STATES HAD OVER 117,000 PUBLIC SCHOOLS IN 1959. THIS NUMBER DROPPED TO 90,000 PUBLIC SCHOOLS BY 1970, AND IT'S NOW DOWN TO ABOUT 86,000 PUBLIC ELEMENTARY AND SECONDARY SCHOOLS IN THE ENTIRE NATION.

IN 1960, CHILDREN UNDER 14 YEARS OF AGE ACCOUNTED FOR 30 PERCENT OF THE TOTAL POPULATION OF THE UNITED STATES. BY 1980 THEY ACCOUNTED FOR ONLY 21 PERCENT, AND THE CENSUS BUREAU PROJECTS A FURTHER DECLINE TO 20 PERCENT IN THE YEAR 2000. YOUNG AMERICANS ARE NOT ONLY HAVING FEWER CHILDREN THAN THEIR PARENTS DID, THEY'RE STAYING SINGLE LONGER.

HOW ABOUT COLLEGES AND UNIVERSITIES?

SINCE 1960, MORE THAN 200 COLLEGES OR UNIVERSITY BRANCHES HAVE CLOSED. WITH THE NUMBER OF COLLEGE-BOUND HIGH SCHOOL SENIORS PROJECTED TO DECLINE BY 25 PERCENT OVER THE NEXT TEN YEARS, SCHOLARS SUGGEST AS MANY AS 200 MORE COLLEGES MAY SHUT DOWN DURING THE DECADE OF THE 1980'S FOR SHEER LACK OF STUDENTS.

IN FACT, BETWEEN 1980 AND THE YEAR 2000, THE NUMBER OF AMERICANS AGE 24 AND UNDER IS INCREASING BARELY THREE PERCENT. BUT OUR POPULATION OVER AGE 24 IS INCREASING ENORMOUSLY -- WELL OVER 25 PERCENT -- DURING THE SAME PERIOD.

CLEARLY, OUR NATION'S COLLEGES AND UNIVERSITIES WILL BECOME INCREASINGLY DEPENDENT ON ADULT EDUCATION, ON PART-TIME STUDENTS, ON MEN AND WOMEN RETURNING TO SCHOOL TO REFINE THEIR SKILLS OR PERHAPS LEARN NEW ONES, AND ON THE NEW GROWING NUMBER OF SUMMER CAMPS HELD BY COLLEGES AND UNIVERSITIES FOR CHILDREN OF GRADE SCHOOL, JUNIOR HIGH AND HIGH SCHOOL AGES.

IN A VERY REAL AND PERHAPS PROFOUND SENSE, I THINK ALL OF THIS -- EVERY SHIFT, EVERY TURN, EVERY VARIATION AND INNOVATION -- IS WHAT MEN AND WOMEN MEAN WHEN THEY COMMUNICATE THE IDEA THAT FEDERAL GOVERNMENT HERE IN WASHINGTON, D.C. IS NOT DIRECTLY AND INTIMATELY RESPONSIBLE FOR EDUCATION DECISIONS IN EACH OF OUR CITIES, OUR TOWNS, OUR COUNTIES.

YES, IT IS A RIGHT RESERVED TO THE STATES BY THE CONSTITUTION, BUT THE PRESIDENT ALSO PERCEIVES -- AS DOES SECRETARY BELL -- THE LITERAL IMPOSSIBILITY OF DEALING WITH THESE RAPID, VAST, AND -- FOR ADULTS AND IMMIGRANTS -- UNPREDICTABLE CHANGES IN THE TOTAL NUMBER OF PEOPLE IN SCHOOL, WITH THE COMPOSITION

OF THESE PEOPLE ATTENDING SCHOOL, WITH THEIR COLLECTIVE NEEDS -- WITHIN THE RELATIVE RIGIDITY OF THE FEDERAL BUREAUCRACY. IN A QUITE LITERAL SENSE, THESE ARE THE DECISIONS PEOPLE TALK ABOUT WHEN THEY SPEAK OF THE OVERWHELMING NEED FOR CHOICES TO BE MADE AT THE STATE AND LOCAL LEVEL.

YET THE ADMINISTRATION DOES FEEL FEDERAL GOVERNMENT HAS SPECIAL CONCERNS:

FIRST, A CONCERN FOR THE QUALITY OF EDUCATION. BY QUALITY, I MEAN BOTH EXCELLENCE IN THE LEVEL OF INSTRUCTION AND THE USE OF NEW, MODERN, COST EFFICIENT TECHNOLOGY WHICH RESEARCH DEMONSTRATES MAY BE SUPERIOR, IN MANY INSTANCES, TO MORE TRADITIONAL METHODS OF INSTRUCTION.

SECOND, A CONCERN THAT TODAY'S HUNDREDS OF NEW INITIATIVES -- EARLY TESTING OF BOTH STUDENTS AND TEACHERS, FOR INSTANCE -- NOT BE DAMPENED OR DISCOURAGED BY FEDERAL GOVERNMENT HERE IN WASHINGTON, D.C. TEXAS, MARYLAND, DELAWARE, NEW MEXICO, NEW JERSEY, VIRGINIA, CONNECTICUT, ALASKA, TENNESSEE, AND NEW YORK CITY HAVE ALL BEEN DESCRIBED IN NATIONAL PUBLICATIONS IN RECENT WEEKS AS MOVING ON THEIR OWN -- AND MOVING NOW -- TO DEMAND QUALITY IN THEIR CLASSROOMS. WE NEED TO SUPPORT THE GROWING GRASSROOTS ACTIVITY UNDERTAKEN THIS PAST YEAR BY PARENTS THEMSELVES, BY SCHOOL BOARD MEMBERS AND SCHOOL PERSONNEL, AND BY DISTRICT AND STATE EDUCATION AUTHORITY MEMBERS.

THIRD, THIS CONCERN EXTENDS TO OUR CHILDREN BENEFITTING FROM COMPENSATORY PROGRAMS, AND TOWARD STUDENT AID FOR THOSE WHO NEED ASSISTANCE TO GAIN ACCESS TO HIGHER EDUCATION.

FINALLY, WE ALL SHARE A DEEP CONCERN FOR OUR GUARANTEE OF CIVIL RIGHTS AND EQUAL OPPORTUNITY, WITH A PLEDGE TO SEEK MORE STATE AND LOCAL INVOLVEMENT IN MEETING THIS GUARANTEE THROUGH MEDIATION, PERSUASION AND TEACHING.

IF WE DO THESE THINGS -- IF WE SERVE WELL AS A CATALYST -- THEN WE HAVE MADE IMMEASURABLE GAINS IN IMPROVING THAT FUNDAMENTAL NEED OF OUR CHILDREN: TO PARAPHRASE WILL DURANT, THE DEBT DUE FROM PRESENT TO FUTURE GENERATIONS, WHICH IS THE TRANSMISSION OF CIVILIZATION ITSELF.

THANK YOU VERY MUCH. I'LL BE HAPPY TO ANSWER ANY QUESTIONS.

Senator STAFFORD. Senator Eagleton, since I had an opening statement, do you wish to add anything?

Senator EAGLETON. I have a batch of questions.

Senator STAFFORD. Suppose we each take 10 minutes and then go back and forth?

Senator EAGLETON. Sure.

Dr. Jones, let me start off with urban education as a general subject. Chapter 2, the so-called block grant formulas, have been approved for approximately 40 States. These approvals were issued by the Department of Education before the promulgation of final regulations. What evidence do we have that the Department will take into account any public comment on its major programs when it has already acted to approve State applications prior to soliciting any comment?

Mr. JONES. The State applications have been formulated through public comment, Senator. The Department also has looked for public comment in formulating its regulations, and obviously there was some public comment that was incorporated in establishing the legislation which was passed by Congress last summer.

Senator EAGLETON. Have the final regulations been approved to implement chapter 2 block grants?

Mr. JONES. They are awaiting the Secretary's signature.

Senator EAGLETON. And as part of that process in the promulgation of final regulations, there is, under the law, a method by which there is public comment; is that not correct?

Mr. JONES. We sent out the NPRM some time ago, Senator, and received public comment, public reaction.

Senator EAGLETON. And that public comment or reaction was taken into account in the preparation of the final regulations?

Mr. JONES. Yes, sir.

Senator EAGLETON. Clear evidence is emerging that the States' block grant funding formulas are resulting in severe decreases in the funding to cities. How has the Department taken this into account when judging the merits of State block grant formulas?

Mr. JONES. First of all, to a certain degree, the States feel it has been unfortunate that the desegregation money in previous years was put into the block grant. Because of that, those dollars have

been obviously allocated across all the school systems, as opposed to those particular ones that had been receiving a large amount of those dollars.

We have received some formulas from a couple of States that had suggested that there would be hold-harmless money available, but we do not interpret the law as permitting that. And therefore we have suggested that they include those children in their formula, which they agreed to, and in all those cases we have approved those formulas.

Senator EAGLETON. It goes beyond the question of the emergency school assistance funding, does it not, in terms of the diminution of funding urban schools versus nonurban. Let me be more specific. Urban schools are losing about $2.50 for every $1 of Federal funds that are being lost by nonurban schools. I will get to some of the specifics of the funding. But is that not correct: that in terms of the diminution of Federal funding, it is being felt with a far heavier intensity in the urban school systems in America than the nonurban. Is that a fair generalization?

Mr. JONES. I would say it is a fair assessment.

Senator EAGLETON. And considering that there are staggering numbers of educationally and economically deprived students in the urban school districts of America, everywhere from New York to Los Angeles, with St. Louis and Kansas City in between, how can the administration countenance such a severe diminution of effort in America's urban schools?

Mr. JONES. We are simply applying the law that was passed by Congress last summer, Senator.

Senator EAGLETON. Well, you are more than applying it. In your budgetary recommendations, you are applying it with an even greater negative intensity.

Mr. Chairman, I ask unanimous consent that an article in the New York Times, Sunday, July 11, 1982, entitled "New Cuts in U.S. School Aid Will Be Both Deep and Wide," be printed in the record at this point.

Senator STAFFORD. Without objection, so ordered.

[The article referred to follows:]

98-519 O—82——3

New Cuts in U.S. School Aid Will Be Both Deep and Wide

By EDWARD B. FISKE

A new round of major cuts in Federal aid to elementary and secondary schools has gone into effect, and large urban school systems and some relatively wealthy districts skilled in the art of obtaining Federal grants are likely to feel the biggest impact.

Under legislation that became effective July 1, total Federal spending for elementary and secondary education will decline from $5.61 billion in the 1981-82 academic year to $5.3 billion for 1982-83. This represents a decline of $315 million, or nearly 6 percent, following a reduction last year of $472 million, or 8 percent.

Because Federal education funds are by and large directed at students who are economically disadvantaged, handicapped, do not speak English or have other special needs, districts that have large numbers of such students will feel the cuts more than those that do not. Federal funds for New York City schools, for example, are expected to drop to about $184 million from $219 million.

Dramatic Changes in Store

Nationally, the $315 million in cuts falls into several broad categories, with the most dramatic changes due under the Education Consolidation and Improvement Act of 1981, with which the Reagan Administration has been most successful in carrying out its philosophy of Federal aid to education.

The legislation is generally known as Chapter II, since it followed remedial education aid legislation known as Chapter I. Under the new law, 30 previously separate programs aimed at specific purposes ranging from desegregation to educa[illegible]n in the metric system have been consolidated into a single block grant. Financing has been reduced from $535 million for the 30 separate, or categorical, programs in the 1981-82 school year to $484 million in the block grant for the coming year, a cut of 10 percent.

Administration officials say the

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New School Aid Cuts to Be Both Deep and Wide

Continued From Page 1

practical effects of the cutbacks will be relatively minor because Federal funds account for only 8.7 percent of the money spent overall on public elementary and secondary education each year and ... new cuts will merely reduce this to 8.2 percent.

'Effects Will Be Minimal'

"We can't say they won't be painless, but they won't be as painful as some people make them out to be," said Sally H. Christensen, director of the budget systems service of the Department of Education. "The effects will be minimal in relation to the overall effects that budget reductions will have on the economy."

She also challenged the assertion of critics that students with special needs will bear the brunt of the cuts. "After 20 years or so of massive Federal support of education for the disadvantaged and handicapped," she said, "we have given the states great impetus to continue these programs. We have no reason to believe they will give them lower priority than we do."

Miss Christensen also said there was no reason to drop needy students from programs because of the cuts. "States and localities should seek out more cost-effective ways to run them or shift funds from other programs," she said. "If necessary, instead of pulling a child out for two hours five days a week, they could do it three days or four days."

Part of Reducing U.S. Role

The cutbacks are part of the Reagan Administration's efforts to reduce the role of the Federal Government in financing education at all levels. Federal aid to higher education in the coming school year, from student loans to construction funds, is scheduled to be reduced to $4.57 billion from $5.54 billion, a cut of 17 percent.

The Administration is proposing $180 million more in cuts that could still take effect this year in aid to school districts overburdened by students because of nearby military and other Federal facilities. However, these still require Congressional action as part of the 1983 budget.

The effects of the cuts for the new school year will vary widely from district to district, depending on how much Federal money the districts have been receiving under the categorical programs that are being consolidated.

School officials in Norwalk, Conn., have shelved plans for an early-childhood education program, while school officials in Chicago have let 200 teachers go because of a $5.5 million reduction in the old program for disadvantaged students. By contrast, the amount of funds received by the schools in Somerville, Mass., which in the past have not been particularly successful in capturing categorical grant aid, will more than double, to $106,000 from $44,000.

Bigger Systems Still Undecided

Most big-city school systems are still planning how to deal with the cutbacks. In many cases, including New York City, final decisions must await word from state education officials on just how much they will receive under formulas for distributing the consolidated grant funds, which are channeled through the states. In many places, however, the broad outlines are apparent.

Officials in charge of public schools in Detroit, which have been relying on Federal aid for 15 percent of their revenue, expect such funds to drop by nearly a third, to $36 million from $56 million. This brings the total loss of Federal funds in the past two years to $33 million. As a result, the Detroit Public School District will, among other things, lose 163 teachers, 470 teacher's aides, 23 administrators and approximately 100 other school employees.

Herschel Fort, the director of Federal state and special programs for the district, said services under the program for disadvantaged students would be reduced 15 to 20 percent. He predicted that as many as 10,000 of the 45,000 students served would have to be dropped from the program.

A Suburb Fuels Itself

Where last year Detroit schools received $4.5 million under various categorical programs, the comparable awards under the block grant concept will be $3 million. School officials have not yet decided which programs to eliminate. "City and state resources are just not available to make up for loss in Federal spending," Mr. Fort said.

But in the nearby suburb of Grosse Pointe, where Federal funds account for less than 4 percent of the annual budget, the cutbacks are expected to produce little belt-tightening. "Grosse Pointe School revenue comes from Grosse Pointers," a school official there said.

In most cases, schools facing cutbacks have tried to preserve as many classroom teachers as possible. As a result of a $920,000 reduction for this fall, the schools in Montclair, N.J., found it necessary to let 50 of their 680 employees go, but all but 21 of them were administrators, secretaries and other nonclassroom employees.

Other school districts likely to feel the effect of the new cuts are those that have been successful in winning competitive grants for the 30 categorical programs, in areas ranging from metric education to instruction in combatting discrimination on the basis of sex. They will be consolidated under the new block grants. Such funds will now be distributed by formulas on the basis of state population.

Drama Program Cut Back

Such districts include most big-city school systems, but they also include suburban districts that, while not necessarily squeezed for funds, did take advantage of available Federal funds.

In Newton, Mass., a suburb of Boston, the "Story to Play" program that has used Federal funds to teach drama to about 1,000 students in 13 public and three private elementary schools has been discontinued because of the cutbacks. "It's over this week," said Aline Shader, who began the program 15 years ago. "There is nothing. Zilch. No funding."

On the other hand, districts that were not particularly aggressive in seeking Federal funds will lose little or nothing under the new policies, and they, in fact, welcome the block grant approach.

"There's less paperwork," said Raymond Izzo, coordinator of Federal funds for the schools in Somerville, Mass., a blue-collar town north of Boston that will see its Federal support rise to $106,000 from $44,000 this fall. "I'm an amateur at writing grants. How can I compete with the systems that hire professionals?"

Such shifts coincide with the broad educational objectives of the Reagan Administration. "The discretion is now with the states and localities to decide on priorities," said Miss Christensen. "Just because a locality has someone good at grantsmanship doesn't mean that they should get money from the Federal Government."

In other areas, Congress has resisted efforts by the Administration to abolish categorical programs in favor of block grants. The Education for All Handicapped Children Act of 1975, for example, has been preserved; Federal funds for special education will actually increase by 7 percent, from $875 million last year to $931 million this fall.

Other categorical programs, however, though kept distinct, will be cut back. Financing for the part of the Elementary and Secondary Education Act that deals with bilingual education will be reduced by 15 percent, to $134 million from $158 million, and support for vocational education will drop by 4 percent, to $663 million from $682 million. Spending for education of American Indians will drop by 5 percent, to $78 million from $82 million.

The largest cut in categorical aid will be in the old program for disadvantaged students, which was previously known as Title I. Federal financing for this will drop by 7 percent, from $3.1 billion over the recently concluded school year to $2.8 billion in the fall.

Since funds under the old law are by definition intended to aid disadvantaged students, districts with a high percentage of such pupils will feel the effect most. Schools in Dallas, where such funds will drop to $8.7 million from $10.3 million, plan to cut the hour that disadvantaged students spend in remedial reading and mathematics classes to 45 minutes and to reduce the number of students served. Jane Ann Logan, a teacher hired under the old law, said funds for supplies would dry up. "The teachers will buy pencils and paper out of their own pockets because poor students can't," she said.

'Carrying Over' Federal Funds

In many cases, school districts have eased the immediate effect of the cuts by taking advantage of the option under the law to substitute local tax funds for Federal money and "carry over" part of the Federal funds to which they are entitled from one year to the next. Schools in New York City will hold spending for the disadvantaged under the old law at an earlier level of $162 million, despite a drop in Federal financing to $133 million from $148 million.

The precise effects that the cuts in programs covered by the old law will have on specific school districts cannot be determined until the courts rule whether the Department of Education may go ahead with its plan to distribute the $3.9 billion on the basis of 1976 census figures. The department argues that adequate data on where poor children live is not yet available from the 1980 census.

Officials in New York and nine other states that would receive $100 million more under the new data, however, argue that the figures are available. They say the decision to use the 1970 figure is politically motivated. Last week these officials obtained a preliminary injunction from a Federal District Court in Washington, D.C., keeping the Secretary of Education from distributing the funds according to the old figures.

A major component of the new legislation is the Emergency School Aid Act, which provides funds for desegregation activities. Such programs will be cut substantially in some places.

In Norwalk, where financing under the new law will fall 40 percent, to $300,000 from $500,000, the Board of Education has eliminated a program that attempted to aid desegregation through such means as multicultural centers and work with elementary students in human relations.

A prekindergarten class and other programs in a magnet school, which offers special programs and attracts students from other schools, will also be terminated.

Congressional Appropriations For Elementary and Secondary Education

Amounts set aside for major Federal programs in each school year

	1981-82	1982-83	Percent Change
Programs for disadvantaged students	$ 3.1 billion	$ 2.9 billion	– 7.0%
Block grants	535.0 million	484.0 million	–10.0
Special education	874.5 million	931.0 million	+ 6.5
Bilingual education	157.5 million	131.4 million	–14.6
Vocational education	681.8 million	653.3 million	– 4.0
Indian education	82.0 million	78.0million	– 5.0

Source: Department of Education

Senator EAGLETON. Let me send a copy of this out to Dr. Jones.

Doctor, I will draw your attention to the second page, the big page, wherein there is a table: Congressional Appropriations for Elementary and Secondary Education. Do you see that table?

That table reflects the cuts in Federal funding in a series of very significant programs. It contrasts the 1981 to 1982 year—we will call that the last Carter year—with 1982 to 1983, the first Reagan year. It reflects the cuts in the programs for the disadvantaged students, block grants, special ed, bilingual, vocational, and Indian education, does it not?

Mr. JONES. Yes, sir.

Senator EAGLETON. I will just go down, column by column, and I will put in a column that does not appear in the article, the 1983 budget.

This table reflects for disadvantaged students, the last Carter year, $3.1 billion; the first Reagan year, $2.9 billion; and according to the administration's budget, it would be $1.9 billion for the 1983 to 1984 school year. Is that correct?

Mr. JONES. Yes, sir.

Senator EAGLETON. For block grants, the last Carter year $535 million; the first Reagan year, $484; and block grants under the Reagan budget for the upcoming year would be $433 million. Is that correct?

Mr. JONES. I believe so, sir.

Senator EAGLETON. Special education, $874 million in the last Carter year; $931, an increase for the first Reagan year; but $772 for the next Reagan year, according to the budget. Is that correct?

Mr. JONES. Which program is $772?

Senator EAGLETON. Special education.

Mr. JONES. No. We have a request of $845.7.

Senator EAGLETON. All right. Therefore, it would drop from $931 for the 1982 to 1983 year, to $845.

Bilingual, $157 million under the Carter year; $131, first Reagan year; $94 million for the upcoming year, according to the budget. Is that correct?

Mr. JONES. Yes, sir.

Senator EAGLETON. Vocation, $681 in the last Carter year; $653 for the first Reagan year; and $500 million estimated for adult education included for the upcoming year. Is that correct?

Mr. JONES. Yes, sir.

Senator EAGLETON. We do not have the Indian figures.

An inescapable conclusion, drawing from those figures as now read into the record, is that there is a very heavy reduction in Federal support for these the most significant of the Federal educational programs; is that not the case?

Mr. JONES. There have been reductions proposed, yes.

Senator EAGLETON. Is it your judgment that the new ideas to which you just referred in your rejoinder to Senator Stafford, the new ideas being generated within your Department, outweigh any negative impact that would come about by reason of this substantially-reduced funding effort?

Mr. JONES. Senator, what I tried to emphasize in my response to Senator Stafford is our budget recommendations should not be ig-

nored nor minimized but I encourage people to look also at some legislative initiatives we have advocated.

For instance, we can look at special education,from the standpoint of total dollars from the Federal Government's contribution. We can also look at it budgetarily from the standpoint of what it does to the individual student. Many people think that this is a catastrophic reduction. In fact, it is a $79 reduction per student, or less than 2 percent, approximately. We are suggesting that aside from that $79 reduction per student, there could be some cost savings at the local education agency level through our consolidation proposal that will be forthcoming. Perhaps the per-student reduction would be in the neighborhood of $45 or so. This was all taken into consideration when we put the budget together. But the idea of a consolidation proposal was to provide a less costly measure for a local agency to provide the protection of the civil rights of a handicapped child.

If we go to bilingual education, we are suggesting that there be more than one way that you educate the limited English proficient student in the local education agency. We are suggesting that there should be a great deal of capacity building, teaching teachers how to teach bilingual education or English as a second language or whatever, rather than continually supporting institutional services. We have found that there are many local districts that continue to receive the Federal dollars, year-after-year. Over one-third of our grant recipients have received Federal dollars for more than 5 years. We believe that once a local school system has received Federal dollars for 2 or 3 years, it's time they go it on their own.

If you look at vocational education, Senator, we have submitted a consolidation proposal for vocational and adult education. Again, it is an idea we would wish the people would address. We are suggesting, that States and localities be given greater flexibility as to how they spend the Federal dollars. Even the report from NIE by Dr. Henry David says that we are trying to do too much with too little at the Federal level. What we think is, if you provide flexibility at the local level, those school people will determine where those dollars should rightly go, as opposed to applying to the State for those Federal dollars for a particular categorical program.

Senator EAGLETON. I will continue with this a little later. My time is up.

Senator STAFFORD. Thank you, Senator.

Dr. Jones, I have a couple of routine questions at this point. I have examined your Statement for Completion by Presidential Nominees. I know it does not indicate any potential conflicts of interest. Do you know of any?

Mr. JONES. Well, at this stage of the game, Senator, I do not believe there could be. I have been through this process twice now.

Senator STAFFORD. Assuming you are confirmed as Under Secretary, are you willing at the request of any Senate committee to appear as a witness in front of that committee?

Mr. JONES. Yes, sir.

Senator STAFFORD. I have noticed in your Statement for Completion that a potential serious difference between you and me might very well be the fact that you went to Michigan State, whereas I went to the University of Michigan.

Mr. JONES. Well, my father, my father-in-law and my wife all attended the University of Michigan.

Senator STAFFORD. Well, that should bring us back together.

Dr. Jones, as you know, rapid technological change is beginning to have its effect on our educational system. What attracts the most attention presently is the impact that the high technology employment market may have on the way our vocational programs train students for work. A less obvious development, but one filled with import, is the application of new technologies to the learning environment of the schools. In this regard, how should the Department of Education react to these developments, and how should it plan to assist school districts to cope with the bewildering array of technological innovations and computer systems that they may soon be confronted with?

Mr. JONES. I believe they are confronted with it now, Senator, to a large degree. I believe that there are some school systems, however, that are more advanced in this educational technology drive than others. I believe the administration is attempting to approach this from two angles. One of them is Secretary Bill's educational technology initiative. It is an attempt to provide information to school districts around the Nation on available technology and effective approaches to educational technology within the classroom or, administratively, within a school system. The second is in our proposed vocational education amendments that earmark a substantial portion of funds for economic development—including training of skilled workers for local needs and retraining of workers who have lost their jobs due to technological changes.

Furthermore, I think that when you speak of vocational education, there is a great deal that all three levels of government, as well as the private sector, can do. I would hope that we would find the private sector contributing technology to school systems. I think that would be the best use of their material or their resources which may, for them, become obsolete. I think it is extremely important that we at the Federal level recognize the growth in educational technology, how fast it has arrived on the scene, and recognize that it is going to continue to require the attention of all administrators.

Senator STAFFORD. Thank you, doctor. There is growing concern in the educational community, in business, and in Congress over the apparent growing shortage of people trained in science and mathematics. Certainly, we can all appreciate the consequences of such an occurrence and how it would affect on our Nation's continued economic development. A variety of responses to this problem are being discussed. Many of the proposed solutions are labeled "Sons of NDEA" or "NDEA-II", after the National Defense Education Act of 1958.

How, might I ask, do you assess the problem? Does one exist, and does the Federal Government have a place in responding to it?

Mr. JONES. The administration has responded in one sense, Senator, with the National Science Foundation holding a conference about 2 months ago. We in the administration, however, do not believe that is all we can do or should do at this point. However, it is also fair to say candidly we are not really sure what we should do. We are thinking about it. We are discussing it through our 1984

budget process. The secretary has listed it as a high priority within the department, and you can be sure that we will come forward with suggestions to Congress or through executive branch activities very soon.

Senator STAFFORD. In the supplemental information included in the department's final regulations for chapter 2 of the Education Consolidation and Improvement Act, the statement is made that except for certain specified sections, the provisions of GEPA have been determined not to apply to programs under chapter 2.

As you know, this issue has been in dispute between the Congress and the administration ever since the proposed rules for chapter 2 were first published. In a House hearing on October 6 of last year, the late Congressman Ashbrook challenged the Department's assertion that GEPA did not apply and stated that, "Where Congress was silent on an issue, the Department should assume that no change has been made."

Could you please inform the committee, therefore, what is the rationale for asserting that GEPA does not apply; and if you can, tell us who made that determination?

Mr. JONES. First of all, we look upon the law passed by Congress as stipulating exactly which GEPA provisions should apply. For those ECIA provisions that were not stipulated, we have interpreted the law to mean they are not required. The GEPA provisions decision has been made within the Department of Education as well as within the Executive Office of the President. We look upon the provisions within ECIA as suggested administrative responsibilities which are the primary concern of the States. We have interpreted that essentially to mean that other than those GEPA provisions within the ECIA, the rest do not apply.

Senator STAFFORD. I think I am near enough to 10 minutes to yield to you for another round on your part.

Senator EAGLETON. Thank you, Mr. Chairman.

Let us focus just for a moment on title I, education for the disadvantaged, Dr. Jones. In answer to one of my earlier questions with respect to reduced funding in this area, you said something to the effect that we arriving at the point—and here is what I jotted down—that school districts "will have to go it on their own" or words to that effect.

Mr. JONES. If I may, Senator, I was referring to the bilingual education program. After we have provided grant money for "X" numbers of years, we think they should be prepared to continue on their own.

Senator EAGLETON. How about for the disadvantaged, title I. Are we working toward the point, in your judgment where the school districts in that area of education should be prepared to "go it on their own"?

Mr. JONES. Not from my vantage point, sir.

Senator EAGLETON. Yet the funding level has been reduced from $3.1 billion in the last Carter year to $1.9 for the upcoming budget. That is a cut of about close to 40 percent, 35 to 40 percent. What evidence do you have that the urban school districts of America have the financial wherewithal to absorb out of local funding the difference between $3.1 billion and $1.9 billion? What evidence do you have that school districts such as New York, Chicago, Buffalo,

Cleveland, St. Louis, Kansas City, and so on, have the financial wherewithal to make up for that kind of a cut?

Mr. JONES. There has been some reduction, Senator, in the number of students attending elementary and secondary schools. There has been a reduction in the so-called disadvantaged student numbers as well. I think what we need to do again, as the Department did during the budget considerations, is look at the reductions on a per pupil basis. We have recognized that in the 1981 budget there were approximately $525 for each title I student. We are suggesting in our 1983 budget there would be approximately $400 per student. That is, $400 per student on the average. So we are not eliminating any title I or chapter 1 type of students.

What we are doing is leaving it up to the local school systems to determine what kind of program they can provide for $400 per student, on the average, and we have found that there are effective programs in chapter 1 that are being implemented at the cost of $300 to $400 per student. We do not really subscribe to the fact that we have caused undue harm to chapter 1. What we are suggesting is that local school systems must begin to assess how they wish to allocate their dollars for their programs. They may wish to take some money from one program. It could be bus transportation, for instance. Some school systems are beginning to make their students walk further distances to school so they do not have to have so many buses, bus drivers, gasoline costs, or whatever. And they take those dollars and apply them to the program costs.

Senator EAGLETON. So you are convinced that these school districts, such as the ones I enumerated, all of which are under intense budgetary constraints of local conditions, that they can in fact do better with less?

Mr. JONES. I am saying that there are effective programs, Senator, that provide those programs for $300 to $400 per student, and we are suggesting a $400 per student program. Moreover the administration's economic recovery program will have a far greater effect on local school financing by reducing the loss of purchasing power through inflation, than the proposed Federal appropriation reductions. Last year, alone, the reduction in inflation retained some $4 billion in education purchasing power for our schools.

Senator EAGLETON. With respect to the Emergency School Assistance Act, I have a couple of questions. As you know, there are a number of States where one or more school districts have been receiving Emergency School Assistance Act funds this year which exceed the amount contained in the entire State block grant for next year. In addition to funds going to districts under court order to implement desegregation plans, some 120 school districts have received awards for voluntary desegregation plans. With the benefit of hindsight, which makes us all very smart, was the inclusion of the Emergency School Assistance Act program in the block grant a wise decision? Was it wise that we did that?

Mr. JONES. Well, the block grant that was passed by Congress, Senator, was not the administration's proposal. It was a proposal that came from the House of Representatives. I think that perhaps, in retrospect as you say, it might have been good public policy to have had a phasein of the money for that program in the block grant but not to have it taken back quite so immediately.

Senator EAGLETON. Department of Education officials have indicated that inclusion of the ESAA program funds into the block grant will allow States to be involved in long-range planning for school desegregation. What evidence is there that States are involving themselves in planning and implementing desegregation activities?

Mr. JONES. I will submit examples of that for the record, Senator.

Senator EAGLETON. You are soon to be the number two man in the Department. Based on your own knowledge of the workings of the Department to date in the capacity in which you have served, do you have any evidence that you can give us of your own immediate recollection which would substantiate the notion that States are involving themselves in planning and implementing desegregation activities?

Mr. JONES. Certainly the States are involving themselves in it. If you want precise examples, I simply cannot give them to you at this point.

Senator EAGLETON. You will supply those for the record?

Mr. JONES. Yes, sir. Could I ask you where you received that statement, sir?

Senator EAGLETON. It was a statement attributed to Mr. Clohan, your immediate predecessor in the position for which you are being considered.

Mr. JONES. May I have a copy of that, sir?

Senator EAGLETON. We will get it to you, yes.

Now with respect to ESAA funding, let me use my two Missouri cities that I have already previously mentioned. In fiscal year 1981, St. Louis city school system received $4.7 million in emergency school aid. Now that same city school district will receive $750,000. Kansas City received $3.3 million in fiscal year 1981; they will now receive somewhere in the neighborhood of $450,000. So both are being cut; one cut 75 percent and the other cut about 80 percent. Perhaps it is 75 in both instances.

Would it be your impression that those two school districts, two of the more beleaguered from a fiscal point of view, of my own knowledge, are in a position to absorb cuts like that and still perform on the desegregation activities that are underway in those two urban districts?

Mr. JONES. Well, I would have to know what their operating budgets are, Senator, to know what kind of impact these fund reductions would have.

Senator EAGLETON. You can take it from me that the funding cuts would be very severe and could not be made up by discharging some bus drivers or what have you. They are two of the most fiscally beleaguered school districts in the country. They do not have adequate access to local funding mechanisms and do not have significant access to any enhanced or increased State funding. These are just cuts that they will have to eat. The point I am trying to make is that in dozens of urban school districts in this country, there is not the elasticity or the flexibility within their budgetary process to absorb cuts of this magnitude.

These cuts just mean reduced effort and, I think inescapably, reduced quality of education. You would disagree?

Mr. JONES. I think it is one of the unfortunate ripple effects of chapter 2, Senator. But it is part of the formula we have implemented that was passed by Congress.

Senator EAGLETON. Since with the benefit of hindsight you, yourself, seem to have some feeling that it was perhaps unwise to have put ESAA in the block grant in the first place, do you contemplate recommending remedial legislation to undo that event?

Mr. JONES. I would recall, for the Senator, that my comment was it might have been good public policy to phasein the ESAA. I did not say that it should have been excluded from chapter 2. At this point, sir, we do not contemplate remedial legislation.

Senator EAGLETON. Why not?

Mr. JONES. Part of the reason, I believe, is that the school systems, by the time any corrective legislation could be enacted, would have been able to adjust to the situation.

Senator EAGLETON. You mean, the harm has been inflicted, and let it so remain?

Mr. JONES. I do not see it as harmful, sir.

Senator STAFFORD. Dr. Jones, to come back to the question I addressed to you about GEPA and chapter 2, in chapter 2 Congress mentioned that three related provisions of GEPA would be changed by the operation of the new block grants. I emphasize "by the operation of the new block grants." Yet Congress, in the judgment of this Senator and many others, had no intention to amend GEPA or make it inapplicable to chapter 2. Therefore, may I suggest to you that the Department's interpretation may be erroneous and may endanger your final regulations for chapter 2. I would heartily recommend that the matter be restudied.

Mr. JONES. I appreciate that.

Senator EAGLETON. Do you more than "appreciate" it? Does it tickle your curiosity? Or is it that you just bluntly appreciate it and dismiss it?

Mr. JONES. Senator Eagleton, as I said earlier this morning, the regulations are on the Secretary's desk for signature, sir. They have been approved by the Department, including the Secretary. They have been approved through the Executive Office of the President. The Secretary has received a letter from the chairman of this full committee, and he has considered it over the weekend. Whether there has been any change in his plans or not, sir, I do not know.

What we have done on the regulations is simply to interpret the law as we see it, as we read it. Should there be a major disagreement over it, then Congress will act. And if there is not, then the regulations will be enforced.

Senator STAFFORD. Of course, part of the problem may be that there may be some action in the courts that will not help anybody.

With respect to the family contribution schedule for Pell grants, Dr. Jones, as you know, the Higher Education Act requires that the Secretary of Education submit to the Congress for its review a schedule of the expected family contribution for the Pell grant program by April 1 in order to facilitate the timely delivery of our largest Federal higher education grant program. It is now July 19, more than 100 days since the passing of that deadline, and we still have not seen the family contribution schedule for the 1983 to 1984

academic year. Can you tell us why this delay has taken place and when we might finally expect to see the schedule? Obviously, the processing system is delayed because of this inaction, and it will be extremely difficult for students to plan the financing of their education in the coming academic year. I am concerned that such inaction represents the erosion of the Department's statutory functions by indirection, as I mentioned earlier in my opening statement. I would welcome your comment here.

Mr. JONES. Senator, the Department is in an embarrassing situation because we have not done the job we were supposed to do when we should have done it. This is a matter we are acutely aware of. It is not the only particular policy recommendation area where we are behind schedule, but we expect it to be forthcoming very soon. As I said, we are embarrassed, we are very apologetic to the students, to the parents, to the institutions, and to Congress.

Senator STAFFORD. Thank you, doctor. Again, with respect to campus-based student aid programs, earlier this year the Department issued a proposed regulation governing the distribution of funds to colleges and universities under the so-called campus-based student aid programs: NDSL, SEOG, and College Work Study. Although this proposed regulation is not yet final, and we have passed the July 1 date on which campus-based distributions to schools are usually made, it is my understanding that the Department intends to make these distributions under the proposed regulations rather than under the current regulation which, as you know, is law.

On what grounds is this being done? Even if the proposed regulation is to be finalized, Congress must still take 45 days to review it before it is promulgated as mandated by law. I am informed that the final regulation may contain provisions to allow the Secretary discretion in determining the Federal capital contribution allotted to campuses in the NDSL program. Can you tell us what the basis of this discretion will be, and can you in any way assure us that schools and students will receive a fair and equitable distribution of NDSL funds if such discretion is used?

Mr. JONES. First of all, since the regulations have not been signed off by the administration entirely, I have some reluctance to address this issue. Again, this is an issue we are behind on. We are quite conscious of that. We have moved as rapidly as we could in the last 4 to 8 weeks to try to get ourselves caught up to speed on many of these policy decisions that have been languishing within the department for some time. We sent out, Senator, an NPRM in January, suggesting what the regulations could be for campus-based programs. We have received comments and we have, within the Department, finalized those regulations, but we have not received clearance at this point through the administration. Furthermore, Senator, we do recognize that once they do come forward, we will need cooperation from Congress. We hope that we can receive that.

Senator STAFFORD. One last question on my part. What is the status of the rewrite of regulations for Public Law 94-142. Assuming a rewrite may be in progress, what can we expect these regulations to propose?

Mr. JONES. One of the experiences that I have had in the past year is the ponderousness of the Federal Government, sir. Within the Department we have several offices that sign off on these regulations, as well as the Executive Office of the President. We are very near completion on those regulations. I know we have been saying that, sir, for several months, but something always kept cropping up. At this point we do expect the regulations to be finalized very soon.

Senator STAFFORD. Are you in a position to suggest to us what any of the regulations may be or what any departure from present policy might be?

Mr. JONES. Not other than suggesting that I believe you will find the deregulation effort here to be quite consistent with the spirit of the recent Supreme Court case on *Rowley*. That is, we have continued to protect the civil rights of handicapped children. We think that since Public Law 94-142 is so prescriptive, in many instances the law can stand on its own or with little elaboration within the regulations. Frequently, we have seen regulations that attempt to take the place of the statutory provisions, and we have not tried to do that.

Senator STAFFORD. Thank you, doctor.

Senator Eagleton?

Senator EAGLETON. Dr. Jones, in answering two or three questions from Senator Stafford, first with respect to family contribution schedule, you said, "That is not the only policy matter that we are behind schedule on." Then later, with respect to campus-based programs, you said, "Again, we are behind schedule." And you said, "Policy decisions were languishing in the Department."

How is this disease afflicting the Department? Why are policy decisions "languishing" in the Department, and what will you do about it if you are confirmed for this position to see that the languishing days are over?

Mr. JONES. First of all, Senator, I think they have been languishing. I do believe that in the last month or so we have picked up speed on them, and that is one reason why we have many things very close to being submitted to Congress.

The matters internally within the Department should best be left within the Department, but I can assure you that we are taking management initiatives which will reach out to all the offices within the Department, that will pull forward the initiatives that we are required to submit to Congress in an expeditious manner. It is going to take us some time to get caught up to where we should be. We apologize for that. But I would expect that next year at this time, we will not be asked to come before Congress to explain our tardiness.

Senator EAGLETON. When you get back to the Department today, would you prepare for the record and for this committee a list of those matters that are languishing over there, two of which have been raised by Senator Stafford and I am sure there are others; and in addition to giving us the list, give us your best target estimate as to when those matters will be resolved. Some may take a matter of a few days or a few weeks, some may take even a few months, but give us a list of what is languishing over there and

your best target estimate as to when those languishing days will be terminated.

Mr. JONES. I will do that, sir.

Senator EAGLETON. Pursuing higher education for a moment, Department officials have been quoted in the Washington Post as describing the student aid programs of higher education as "Posh." Do you think that description applies to higher education programs? For instance, take Pell grant recipients. Sixty percent of the recipients have family incomes below $12,000, and guaranteed student loans are now restricted to incomes below $30,000. That being the case, is it fair or accurate to refer to those higher education programs as "Posh"?

Mr. JONES. No, sir.

Senator EAGLETON. Do you agree with the statement which was made in an unofficial administration briefing document, to the effect that under its proposal for an education foundation, Federal student aid programs "would eventually evolve to the States and individuals."

Mr. JONES. That is not the official document of the Department, Senator. We do not stand by that statement.

Senator EAGLETON. You do not stand by that statement?

Mr. JONES. That is correct.

[A briefing paper on Secretary Bell's proposal for dismantling the Department of Education, prepared by the Department, on page 3 of which it is stated that the Foundation for Education would administer "student grants and loans that would eventually desolve to States and individuals," follows:]

A PROPOSAL FOR A FOUNDATION FOR EDUCATION

Overview

A national foundation for education, under the supervision of a Presidentially-appointed Director, would have a supportive role rather than one of enforcement or intrusion.

It would administer block grants for State and local education agencies, including those currently authorized in the Education Consolidation and Improvement Act (ECIA) currently and others to be proposed. A foundation would continue support for compensatory education programs, assistance to developing colleges and historically black institutions, student financial assistance, and a core of information, statistical and research services for education.

Among a foundation's major responsibilities would be identification of programs that are more properly the responsibility of State and local governments.

It is the conviction of this Administration that education is primarily a State, local and citizen responsibility. Education does not begin with the Federal government, or even State and local officials. It begins with parents, and government is there simply to assist in this responsibility.

The Tenth Amendment to the Constitution makes it clear that this is not an area for the Federal government to take primary responsibility, as is the temptation with a Department-level entity. Departments regulate, dictate processes and procedures, and burden State and local governments in ways that should be preserved to those provinces specifically delegated to the Federal government.
A foundation would provide support and assistance to States, families and communities. The Administration's primary concern is the quality of education and what role the Federal government should play in fostering a return to high standards of excellence in education at all levels.

This Country had a Department of Education in 1867. It was eliminated by an act of Congress one year later. We hope the 97th Congress will work as expeditiously with this Administration in redefining the Federal role in education as did their peers over one hundred years ago.

SUMMARY

- Dismantling the Department of Education as a Cabinet agency.
- Creation of a foundation for education.
- Of 159 programs now authorized in the Department of Education:
  - 105 would be retained or blocked (under ECIA or new proposals) into 37 programs administered by the foundation;
  - 31 would be transferred to other mission agencies;
  - 23 would be terminated.
- A foundation would reaffirm the appropriate role of the Federal government as one of assistance to States in improving the quality of and access to education.

BACKGROUND

- On February 18, 1981, the President outlined his Program for Economic Recovery. It included the consolidation of more than 40 Federal elementary and secondary education programs into a block grant to the States and local communities.
- On August 13, 1981, the President signed into law the Omnibus Reconciliation Act of 1981, which included a modified consolidation of Federal elementary and secondary education programs and continuation of the Title I grant program for low-income school districts as a separate categorical program.
- On August 21, 1981, the Secretary of Education announced the elimination of 30 sets of regulations associated with consolidated Federal elementary and secondary education programs. The revocation of these regulations eliminated the flow of some 200,000 pages of grant applications, 7,000 pages of financial reports, and 20,000 pages of programmatic reports moving to the Federal government annually.

- On September 24, 1981, in his nationwide address to announce further FY 1982 budget revisions, the President announced his request of $12.6 billion for Federal education programs under the jurisdiction of the Department of Education, reflecting a 12 percent reduction below his March budget request, and reiterated his campaign pledge to dismantle the Cabinet-level Department of Education.

PROPOSAL

It is the Administration's objective to reiterate its commitment to restrain the size and cost of government, and to eliminate unwarranted control and interference of American education, which is primarily a State and local responsibility. It will also reaffirm an appropriate Federal role to assist State and local efforts to improve the quality of education nationwide, as well as access to education by all our people.

The proposal would reduce and streamline Federal education programs, eliminate further unnecessary Federal regulations and bureaucratic control, and help return the Federal government to solely an assistance role in educational endeavors.

A. Features of Proposal
Briefly, this proposal includes:

- Dismantling of the Department of Education as a Cabinet agency.

- Creation of a foundation for education that will administer:

  --block grants and consolidated aid for State and local educational agencies that would eventually devolve to the States;

  --student grants and loans that would eventually devolve to States and individuals;

  --interim support for equal educational opportunity (compensatory) programs;

  --a core of continuing informational, statistical, and research services for education.

- The foundation will be:

  --administered by a Director, who would be appointed by the President with the advice and consent of the Senate and directly responsible to the President;

  --advised by a non-governing board, limited by statute to an advisory capacity, whose members would be appointed by the President.

- Overseas dependents' schools will remain with the Department of Defense.

- 31 existing Federal education programs will be transferred to other mission agencies which have related programs.

- 105 existing Federal education programs will be consolidated and reduced to 37 programs to be administered by the new foundation.

- 23 existing Federal education programs will be terminated.

B. Details

Presented below are additional details on the proposal:

1. Foundation for education

   - It is proposed to reorganize all but 54 existing Department education programs in the new foundation. The total FY 1982 budget level of these programs under the President's September 24 budget revision is $10,979,700,000, including funds for the Office of the Inspector General and Departmental management.

   - When in full effect, 42 existing programs consolidated under the Education Consolidation and Improvement Act of 1981 will be reduced to one block grant, plus the Secretary's set-aside discretionary fund.

   - If enacted as planned, 32 additional existing programs would be reduced to four consolidations and block grants.

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2. Programs Proposed for Transfer to Other Agencies

Program and FY 1982 Budget*	Location pre-Department of Education	Proposed Receiving Agency
Rehabilitation Services (6 programs, $861.0 million)	Department of Health, Education and Welfare	Department of Health and Human Services
International education, domestic centers, fellowships (1 program, $15.0 million)	Department of Health, Education and Welfare	International Communications Agency
International education, overseas program (1 - program, $2.6 million)	Department of Health, Education and Welfare	International Communications Agency
Indian education programs (5 programs, $71.4 million)	Department of Health, Education and Welfare	Department of the Interior

*September 24 budget revision

[illegible] Budget	Education	Agency
Special Institutions (Printing, House, NTID, Gallandet - 6 programs $83.2 million)	Department of Health, Education & Welfare	Department of Health & Human Services
Impact Aid -- Operations (3 programs, $335.3 million)	Department of Health, Education & Welfare	Department of the Treasury
Impact Aid -- Construction (1 program)	Department of Health, Education & Welfare	Department of the Treasury
Impact Aid -- Federal Property construction (1 program, $6.2 million)	Department of Health, Education & Welfare	Department of Defense
Impact Aid --Indian Lands construction (1 program, $11.4 million)	Department of Health, Education & Welfare	Department of the Interior
College Housing subsidies and appropriations (2 programs, $.2 million)	Department of Housing & Urban Development	Department of the Treasury
College Construction subsidies (3 programs, $74.4 million)	Department of Health, Education & Welfare	Department of the Treasury
Minority Institutions Science Improvement (1 program, $4.4 million)	National Science Foundation	National Science Foundation

3. Programs Proposed for Termination

Program	FY 1982 Budget*
Institute of Museum Services	$ 0.2 million
Migrant High School Equivalency	5.6 million
Migrant College Assistance	1.1 million
State Student Incentive Grants	67.5 million
Legal Training for the Disadvantaged (CLEO)	0.9 million

*September 24 budget revision

Program	Terminated	FY 1982 Budget*
Cooperative Education (Title VII, Higher Education Act)		$ 4.3 million
Fellowships for Graduate and Professional Studies (Title IX-A & B, Higher Education Act)		9.7 million
Libraries		58.1 million
Public Library Services		(41.2 million)
Interlibrary Cooperation		(10.6 million)
Library Career Training		(0.6 million)
Library Research & Demonstrations		(0.4 million)
Research Libraries		(5.3 million)
College Library Resources		---
Telecommunications Demonstrations		---
Veterans Cost of Instruction		---
Aid to Land Grant Colleges (Morrill Act)		---
Ellender Fellowships		---
Educational Outreach (Title I-B, Higher Education Act)		---
Public Service Grants and Fellowships (Title IX-A & B, Higher Education Act		---
Mining Fellowships (Title IX-B, Higher Education Act		---
Wayne Morse Chair of Law and Politics		---
National Academy of Peace and Conflict Resolution (Sec. 1511, Elementary & Secondary Education Act)		---
Law School Clinical Experience Program (Title IX-E, Higher Education Act)		---

*September 24 budget revision

Senator EAGLETON. The Department has reduced several services available under the Pell grant program. Among these were elimination of several toll-free lines for students to call to receive help on questions and problems they had on their student aid applications; extending the time it takes to process an application for student aid; and eliminating the reminders that are sent to students who need to have their applications reprocessed.

Some of these at least appear to me to be pennywise pound foolish. They will all result in delays in timely notification of students about their aid and create confusion among students at a time when they need more, not less, help in coping with reduced aid dollars. Can you give us the rationale for some of these decisions as just described?

Mr. JONES. Yes, sir. The reasons we took those measures were either because we found some ways to save some dollars, or we were going to be required to come to Congress and ask for more supplemental dollars. What we have done is take initiatives on the processing of the Pell grants that we do not believe will really impede the progress of the processing of those applications.

Senator EAGLETON. Let me get into the area of vocational education. The administration has proposed to reduce and, finally by 1987, to eliminate any Federal presence in vocational education. According to reports from the States and data from the Department of Education, Federal funds have provided an incentive for States and local communities to focus on a variety of special populations, including the disadvantaged and the handicapped. Does this mean that the administration intends to totally abandon the present focus of vocational education on special populations?

Mr. JONES. All of the special populations in the current law would be allowable activities under our proposed law, Senator.

Senator EAGLETON. But what would be the Federal support. Albeit things are allowable, but what would be the Federal commitment in this area?

Mr. JONES. The Federal commitment on the one hand is that we would permit the States and localities to address those target populations if they so choose.

Senator EAGLETON. Well, that is marvelous. You will permit the States to formulate and fund on their own programs geared to special populations; you will not, by edict, try to stop the States from doing it? That is your commitment?

Mr. JONES. That is correct.

Senator EAGLETON. That is a hell of a commitment. It is very decent of you to permit the States to do that. That is the epitome of benign neglect.

Mr. JONES. Obviously, I do not agree with that assessment, Senator. We believe that there is a tremendous amount of trust that we should be placing in our State and local officials. It is not simply up to the Federal officials to have to tell these other people how they should do their business. You will find that there are many handicapped laws, for instance, in States that are more prescriptive than the Federal law. To assume that it takes the Federal Government to mandate attention to target populations, I think, is giving less credit to the local and State officials than they deserve.

Senator EAGLETON. Great emphasis of this administration is on the creation of jobs in the private sector and training people and educating people to obtain and hold jobs in the private sector. Is not, at the elementary and secondary education level, vocational education one of the primary teaching methodologies by which young men and women are trained in job skills for the private sector?

Mr. JONES. That is correct, and that is one reason why our legislation advocates adult education to be a part of vocational education programs. The people who are in adult education frequently need to go back to school to get more education for retraining. Furthermore, you will find in our proposal that we are emphasizing skilled work force training and economic development. These elements are built right into our vocational education proposal. We think it is highly important that each State identify where the priorities within that State should rest.

Senator EAGLETON. And having that philosophical commitment, is it going to help matters, insofar as vocational education is concerned, if under your plan by 1987 there is no participation, fundingwise, from the Federal Government in vocational education?

Mr. JONES. We believe that it is unnecessary for the Federal Government to hand out dicta to the States and localities on appropriate vocational education programs within those States and localities.

Senator EAGLETON. Is it not the case that vocational education is one of the more expensive endeavors insofar as the local school district is concerned? You used to be on the board of education of the Fairfax School District; correct?

Mr. JONES. It depends upon the emphasis within the school district, sir.

Senator EAGLETON. Again, with those school districts that are less affluent—by that I will pass Fairfax and Montgomery County; I live in Montgomery County—but with respect to those school districts that are not so affluent as Fairfax and Montgomery County, what is the financial wherewithal for them to absorb the full funding in toto of vocational education by 1987?

Mr. JONES. First of all, the State and local governments overmatch the Federal contribution 11 to 1, Senator, so there are very few Federal dollars contributing to the well-being of those programs. The Federal Government's role is primarily a catalytic one at this point. I think you will find that——

Senator EAGLETON. But even under your budget estimate for next year, it is $500 million. I realize that, in an administration that has recommended a budget deficit of $104 billion, $500 million may appear to be minuscule. But Senator Dirksen once said, with respect to a billion dollars, "A billion here, a billion there, and pretty soon you're talking real money." So if you are committed to putting in a half a billion for vocational in 1983, how are the Buffalos, Clevelands, St. Louises, and Kansas Citys, and so on, going to make up that $500 million loss when you phase out of it entirely?

Mr. JONES. First of all, when they are phasing out, they will still have the Federal dollars through 1987, if they so choose. Then they will find their dollars at the State and local level, or through private enterprise. We are taking a tremendous amount of comment

from people constantly, Senator, on our budget levels. I can appreciate that. But we have simply tried to show fiscal restraint within this town. It has not been easy because, as you know, we have only balanced the Federal budget once in 22 years. Until we begin to balance that budget——

Senator EAGLETON. I can assure you, and you can testify under oath, that President Reagan will never come anywhere close to balancing a budget at any time, despite his curious support for a constitutional amendment mandating that the budget be balanced. He will go down in history as "Red Ink Ronald," the most red-inked President of the United States since George Washington and everybody in between included.

Mr. JONES. I am not prepared to accept that yet, Senator. We are still going to work at that.

Senator EAGLETON. Inevitability causes you to have to accept it, whether you like it or not. You cannot read any budget deficit projection which would permit you to come to any other conclusion. It is one thing for fiscal restraint, it is one thing for fiscal belt-tightening; it is another thing, insofar as public education is concerned, to recommend fiscal strangulation. In question after question, whether it is the disadvantaged, whether it is bilingual, whether it is vocational, you say you are going to give the States or local school districts the discretion to redeploy their own funds. Yet you know, doctor, that in many school districts in this country there are no local funds to redeploy.

They are already one penny away from red ink. So if you are going to let them redeploy money into the disadvantaged, redeploy their own money into bilingual, redeploy their money into vocational, they have to redeploy it out of something they are already doing. The net result is that these beleaguered local school districts are going to be faced with varying degrees of educational calamities. That is just as inescapable and unavoidable under this administration's policy as is the sea of red ink that is being generated.

The best answer you can give is, you are going to give some new ideas, and less is better. That is about all I can conclude from your testimony up to this point.

Mr. JONES. We are trying to give Congress and the education community new ideas, Senator. We are saying at this point of time, less funding is required as a part of the administration's economic recovery program.

Senator EAGLETON. Let me give you a specific case. Give me some new ideas to tell the superintendent of the Detroit city schools, which has already had the State allocation cut by Lansing. You are going to tell the Detroit school superintendent, "We are going to cut you on disadvantaged. We are going to cut you on special education. We are going to cut you on vocational education. Now, Mr. Superintendent, we have some new ideas for you in the administering of the Detroit schools."

Please dictate the letter now that you will send to the superintendent on these new ideas that you have for him.

Mr. JONES. I went through each one of those programs earlier, Senator, indicating what we felt were the approaches that the Federal Government should take and could take and from which the States could receive some benefit. People continue to look at our

budget in the broad-dollar figures, and we are suggesting that we need to look at the dollars behind each individual student. It makes a difference, and States and localities may be able to adjust. Recognizing that was are talking about a 2-percent reduction per handicapped child, or a 5-percent reduction for a title I child, puts these reductions in context.

Senator EAGLETON. The new idea you are going to send to the Detroit superintendent is, "You can do just as well or better with less." Is that your new idea?

Mr. JONES. For title I and now currently chapter 1, there are programs that are effective at $300 to $400 per student, and we are prepared to fund them at $400 per student, as I mentioned earlier.

Senator EAGLETON. Are you sending some of your effective programs from Fairfax County, Va., or some of Montgomery County's effective programs? Are you going to send those out to Detroit and say, "Gee, things are peachy keen in Fairfax and Montgomery. They ought to be peachy keen out there in Detroit. Yours very truly, we're sending less money."

Mr. JONES. I do not choose to sit here and draft a letter to a member of the administration of Detroit, Mich. Moreover, I do not wish to get bromidic in my response to that type of a question. But I do suggest this administration is calling for self-restraint in Washington. It is calling for better utilization of resources at the State and local levels. It is true that Michigan is also hard hit by the recession and the high interest rates that are precipitated by Government policy. But the fact is we all must begin to do more with what we have.

Senator EAGLETON. All right. Would you do this before we have a committee markup on your nomination? I would like to know more about these new ideas you have that will help some of the beleaguered school districts. I am not insisting on this as an academic discipline. Would you have your folks take a look at the problems in the Detroit school system, the fiscal and budgetary problems; have them take a look at programmatic methods which are not currently being utilized in the Detroit school system; and then give us a letter that you would recommend that Secretary Bell send to the superintendent in Detroit telling him how he can do much better with what he has and with the lesser amount he is going to receive in the years ahead?

I would like to see new ideas, more than just a mist in the atmosphere. I would like to see in hard writing, on a piece of paper or several pieces of paper, these new ideas you have that are going to bring relief and comfort to the Detroit school system. You can prepare such based on the research that your department already has available, the contacts it has had on an ongoing and continuing basis with the Detroit school system for many years. Give us the benefit, in written form, of those new ideas that you would transmit to the superintendent thereat. Can that be done?

Mr. JONES. I presume you know that we would have the cooperation of the superintendent of the Detroit school system.

Senator EAGLETON. I did not hear you.

Mr. JONES. I presume you know that we will have the cooperation of the superintendent to let Federal officials come in and take

a look at their school system, to evaluate what they are doing now and what should be done? Are you suggesting that, Senator?

Senator EAGLETON. If you do not like Detroit, I guess I could help you with respect to the city of St. Louis. I picked Detroit because it is the most beleaguered of the beleaguered. It is beleaguered in the extreme. But you are the one, sir, who has the new ideas. This administration is the one that has the new educational ideas. The idea has to be something a little more specific than "faith, hope, and charity." The idea has to be a little better than, "Make do with less, and you can do a very good job because we're doing a great job over in Fairfax County, Va."

I want to know what it is. You are going to take away cash. You are saying that everything should not be geared to how much money a school system gets; that this is not an altogether too satisfactory guidepost. "Yes, we are cutting back on the disadvantaged. We are cutting back on special education. We are cutting back on vocational education. But we, Mr. Superintendent, we are the first administration in years that has come up with some new ideas." That was your opening statement. You are the man with new ideas. Your administration has the new ideas. Give us some of the new ideas that will play in Peoria. If you want, use the Peoria school district; they used to have a mayor out there that Presidents liked. Give us some new ideas for Peoria. Give us some new ideas for Detroit.

Mr. JONES. Senator, if I may, I said that we have submitted more new ideas in the first 18 months, and not that we have submitted ideas and other administrations have not. Second, I have addressed those new ideas. I have suggested the consolidation proposal for vocational and adult education. I have suggested our approach is capacity building in the area of bilingual education. I have suggested the new ideas in the consolidation proposal for the handicapped.

Those are the types of ideas I am talking about. The fact that some chapter 1 programs can be funded for $300 is another example. But everybody assumes that because you are at $525, we must continue at $525. It may be that those local school systems would like $525 per student. Any superintendent would.

Senator EAGLETON. If you are convinced your new ideas will translate into more efficacious and meaningful education at the grassroots level, why not spell out for us in writing, in a test case, what those new ideas would mean realistically to a school system such as Detroit?

Mr. JONES. I will do that, sir, and I appreciate the opportunity to do that. We do believe that these ideas will do exactly that.

Senator EAGLETON. Give us the benefit of that in writing, and do not worry about the length of the document. If it is 50 pages or so, we will take the time to read it. We want this to be more than cursory. So we await your response with respect thereto.

Now, let us get into the area of equal educational opportunity. Of the various sorry aspects of this administration educationally, until something better comes along, I guess this is the sorriest. Well, maybe the next subject matter is even worse; I do not know.

Are you aware of a letter that Secretary Bell wrote to Senator Laxalt, in which this quotation was made: "The Federal courts may soon be after us for not enforcing civil rights laws and regulations.

Your support for my efforts to decrease the undue harassment of schools and colleges would be appreciated. It seems that we have some laws that we should not have, and my obligation to enforce them is against my own philosophy." Are you aware of a letter from Secretary Bell to Senator Laxalt, containing language as just given?

Mr. JONES. No, sir.

Senator EAGLETON. I will call your attention to it, and then I will ask when you go back to the Department that you talk to Secretary Bell. I call to your attention an excerpt in the Congressional Record of April 6, 1982, at page E1519, wherein Congressman Phillip Burton of California put into the record a speech from Joseph Rauh. In that speech—here is an excerpt from the speech:

Late one evening some months ago,

This is Mr. Rauh speaking,

I picked up the phone in my office and a voice at the other end said, "Mr. Rauh, you've been working for the cause of school integration a long time, and I have to help. You should know that Education Secretary Terrel Bell is philosophically opposed to enforcing civil rights, and he has put it all down on paper in a letter to Senator Laxalt that I have here. At great personal risk——

Still Rauh talking,

This Education Department employee sent me a copy of the letter. And here is what Secretary Bell, whose sworn duty it is to see that the laws of the land are faithfully executed, wrote to the good Senator.

And then he quotes from the letter that I have just given to you.

Could you ask Secretary Bell if he did in fact send a letter to Senator Laxalt on this subject matter; and if he sent more than one letter, could we have verbatim copies of the letters, if they are plural, that he did send to Senator Laxalt on this subject matter of equal educational opportunity?

Mr. JONES. Yes, sir.

Senator EAGLETON. Could you inform us in a timely way, after you have made your check with the Secretary, as to whether the search has revealed any such letters, so that we are just not in limbo on that subject?

Mr. JONES. Yes, sir.

Senator EAGLETON. What is your own philosophy, Dr. Jones, regarding the Federal role in enforcing civil rights law, as it applies in the educational area?

Mr. JONES. I believe that the Federal Government has about four or five basic elements that should make up its Federal role. And certainly protection of the civil rights of students and children is one of those main elements.

Senator EAGLETON. Those laws, like any other laws, are to be enforced by the Department of Education and are to be enforced evenhandedly, vigorously, completely?

Mr. JONES. I believe that what we are doing is exactly that, sir, and we are enforcing the laws as evenhandedly as we can.

Senator EAGLETON. And as vigorously as you can?

Mr. JONES. Under our definition of "vigorously," that is correct.

Senator EAGLETON. Is your definition of "vigorously" the same as mine? Do you use a different dictionary than I use? Is Webster's dictionary as good as any other that you know of?

Mr. JONES. No, sir. But what I am saying is that our compliance activities have been mistaken, I believe. Our flexibility in trying to reach agreements with many of the different institutions in the Nation has been misinterpreted as inactivity. We are sensitive to that, and we believe that what we have done has resulted in considerable progress.

Senator EAGLETON. You concede, by that answer, that your approach in the area of civil rights is different from that of the previous administration?

Mr. JONES. I think to a certain degree it may be, depending upon what we may be addressing. But what this administration is committed to is the protection of civil rights for all people. We have done that through our Office of Civil Rights.

Senator EAGLETON. And you are just as vigorous in your pursuit of these laws and their enforcement as the previous administration?

Mr. JONES. We believe that we are vigorously enforcing the laws for civil rights in this Nation; that is correct.

Senator EAGLETON. Last month, the U.S. Commission on Civil Rights issued a report on Federal civil rights enforcement budget for the fiscal year 1983. That report demonstrates that the Department of Education civil rights enforcement is being seriously affected by budget and staff reductions. For example, compliance with the so-called Adams court order, Judge Pratt's ruling that the Department comply with specific timetables for processing civil rights complaints, is being undermined by staff reductions. Would you care to comment or can you comment on that report of the U.S. Commission on Civil Rights?

Mr. JONES. I believe the Office for Civil Rights has submitted its assessment as to why we have difficulty in meeting the Adams time frame, Senator. It is far more than merely a question of the budget.

Senator EAGLETON. We explored earlier areas in which policy decisions are languishing in the Department of Education, and you were quite candid in acknowledging that such was the case and that you were going to take steps to remedy that. Would it be also fair to apply that same word "languishing" to the civil rights effort of the U.S. Department of Education? Are some of those efforts languishing as well?

Mr. JONES. No, sir.

Senator EAGLETON. They are vigorously on schedule?

Mr. JONES. Our Office for Civil Rights is actively pursuing the various cases before it, sir.

Senator EAGLETON. Does the Department of Education contemplate new regulations which would remove the guaranteed student loans from the definition of Federal financial assistance?

Mr. JONES. No, sir.

Senator EAGLETON. There is nothing brewing over there on any proposed regulations or contemplated regulations that would remove GSL from the definition of Federal financial assistance?

Mr. JONES. Not to my knowledge, sir.

Senator EAGLETON. Would you check to see if anything is percolating around on that. And if in fact there is, would you comment on whether that would open the door for loans to to be granted to

students attending institutions which discriminate against certain students?

Mr. JONES. Yes, sir.

Senator EAGLETON. Give us a report on that, if you would, sir.

Mr. JONES. Yes, sir.

Senator EAGLETON. Title IX, prohibiting sex discrimination in any federally financed education program, seems to have become a special target of this administration. Given the fact that the equal rights amendment, as submitted, has failed, title IX becomes important especially in protecting the rights of women and girls in education. What are your views on title IX?

Mr. JONES. We are, within the Department, enforcing title IX, sir, under the law. I endorse those activities.

[The proposed draft regulations exempting guaranteed student loans from the definition of Federal financial assistance follow:]

4000-01

DEPARTMENT OF EDUCATION

Office for Civil Rights

34 CFR Part 100

Nondiscrimination under Programs Receiving Federal Assistance through the Department of Education -- Effectuation of Title VI of the Civil Rights Act of 1964

34 CFR Part 104

Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance

34 CFR Part 106

Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefiting from Federal Financial Assistance

AGENCY: Department of Education

ACTION: Notice of Proposed Rulemaking

SUMMARY: The Secretary of Education proposes to amend the regulations implementing Title VI of the Civil Rights Act of 1964 (nondiscrimination on the basis of race, color, or national origin), Section 504 of the Rehabilitation Act of 1973 (nondiscrimination on the basis of handicap), and Title IX of the Education Amendments of 1972 (nondiscrimination on the basis of sex) to include loans made under the Guaranteed Student Loan Program and the Auxiliary Loans to Assist Students Program (PLUS Program) within the statutory exemption for contracts of insurance or guaranty. This amendment is intended, also, to make the definition of the term "Federal financial assistance" consistent in the regulations implementing these three statutes.

DATES: Comments must be received on or before (insert 45th day after publication in the FEDERAL REGISTER).

ADDRESSES: Comments should be addressed to Mr. Clarence Thomas, Assistant Secretary for Civil Rights, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 5000, Switzer Building), Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Mr. Antonio J. Califa, U.S. Department of Education, 400 Maryland Avenue, S.W., (Room 5000, Switzer Building), Washington, D.C. 20202. Telephone (202) 245-2184.

SUPPLEMENTARY INFORMATION:

Based on a review of the legislative history of Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and Title IX of the Education Amendments of 1972, and (as a result of the decision of the district court in Grove City College v. Harris, ~~500 F. Supp. 253 (W.D. Pa., 1980)~~, the Secretary has determined that the regulations implementing Title VI, Section 504, and Title IX should be amended to include loans made under the Guaranteed Student Loan Program and the Auxiliary Loans to Assist Students Program (PLUS Program) within the statutory exemption granted to contracts of insurance or guaranty.)

Title VI, Section 504, and Title IX prohibit discrimination in the use of Federal financial assistance. The Secretary

believes, and the legislative history of these provisions supports the proposition, that the Congress intended that contracts of insurance or guaranty be exempt under these statutes.

Section 605 of Title VI of the Civil Rights Act of 1964 provides that:

> Nothing in this title shall add to or detract from any existing authority with respect to any program or activity under which Federal financial assistance is extended by way of a contract of insurance or guaranty.

(42 U.S.C. 2000d-4)

Section 905 of Title IX of the Education Amendments of 1972 contains substantially the same provision with respect to that title. (20 U.S.C. 1685)

While Section 504 of the Rehabilitation Act of 1973 does not contain an identical provision, the legislative history of Section 504 indicates that it was patterned after the antidiscrimination language of Title VI.

In addition, Section 505(a)(2) of Title V of the Rehabilitation Act of 1973, as amended, provides that:

> The remedies, procedures, and rights set forth in Title VI of the Civil Rights Act of 1964 shall be available to any person aggrieved by any act or failure to act by any recipient of Federal financial assistance or Federal provider of such assistance under section 504 of this Act.

(29 U.S.C. 795(a)(2))

In modeling Section 504 on Title VI, it is reasonable to assume that the Congress intended the reach of Section 504 to be coextensive with that of Title VI, thus excluding contracts of insurance or guaranty.

These three statutes clearly exclude from coverage any program of assistance by way of a contract of insurance or guaranty. Therefore, guaranteed student loans and auxiliary loans to assist students are not a basis for the Department's assertion of jurisdiction over an institution of postsecondary education under Title VI, Section 504, or Title IX.

The purposes of the proposed amendment are (1) the inclusion of guaranteed student loans and auxiliary loans to assist students within the statutory exemption granted to contracts of insurance and guaranty and (2) editorial changes solely for purposes of clarity and consistency. The amendment indicates neither approval nor disapproval of any legal interpretations inferred from the sections of the regulations that are republished in this document.

EXECUTIVE ORDER 12291

This proposed amendment has been reviewed by the Department in accordance with Executive Order 12291 and is classified as non-major because it does not meet the criteria for major regulations established in the order.

REGULATORY FLEXIBILITY ACT CERTIFICATION

The regulations being amended affect all institutions of postsecondary education that enroll students who receive guaranteed student loans or auxiliary loans to assist students (PLUS Program) or whose parents receive auxiliary loans to assist students. The Secretary certifies that these regulatory changes will not have a significant economic impact on a sub-

stantial number of small entities. Because the proposal involves elimination of a requirement, it imposes no additional recordkeeping or reporting burdens.

INVITATION TO COMMENT

Interested persons are invited to submit comments and recommendations regarding this proposed rulemaking. Written comments and recommendations may be sent to the address given at the beginning of this notice. The Secretary will consider all comments received on or before the 45th day after publication of this notice in the FEDERAL REGISTER. All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in Room 5000, Switzer Building, 4th and C Streets, S.W., Washington, D.C., Monday through Friday of each week, except Federal holidays.

Dated:

T. H. Bell
Secretary of Education

COPY

98-519 O—82——4

The Secretary proposes to amend Part 100 of Title 34 of the Code of Federal Regulations as follows:

1. Section 100.2 is revised to read as follows:

§100.2 Application of this regulation.

(a)(1) This regulation applies to any program for which Federal financial assistance is authorized to be extended to a recipient under a law administered by the Department, including the Federal assisted programs and activities listed in Appendix A of this regulation.

(2) The fact that a type of Federal assistance is not listed in Appendix A shall not mean, if Title VI of the Act is otherwise applicable, that a program is not covered.

(3) Federal financial assistance under statutes now in force or hereinafter enacted may be added to Appendix A by notice published in the FEDERAL REGISTER.

(b) This regulation applies to money paid, property transferred, or other Federal financial assistance extended after the effective date of the regulation pursuant to an application approved prior to such effective date.

(c) This regulation does not apply to --

(1) Any Federal financial assistance by way of insurance or guaranty contracts, including --

(i) Guaranteed student loans (34 CFR Part 682); and

(ii) Auxiliary loans to assist students (34 CFR Part 683);

(2) Money paid, property transferred, or other assistance extended before the effective date of this regulation;

(3) The use of any assistance by any individual who is the ultimate beneficiary under any such program; or

(4) Any employment practice, under any such program, or any employer, employment agency, or labor organization, except

(Secs. 602, 604, Civil Rights Act of 1964, 78 Stat. 252, 253; 42 U.S.C. 2000d-1, 2000d-3)

2. Paragraph (f) of §100.13 is revised to read as follows:

§100.13 Definitions.

* * * * *

(f) "Federal financial assistance" means any of the following, when authorized or extended under a law administered by the Department:

(1) A grant or loan of money, including money made available for --

(i) The acquisition, construction, renovation, restoration, or repair of a building or facility or any portion of that building or facility; or

(ii) Scholarships, loans, grants, wages, or other funds--

(A) Extended to any entity for payment to or on behalf of students admitted to that entity; or

(B) Extended directly to those students for payment to that entity.

(2)(i) A grant of Federal real or personal property --including surplus property-- or any interest in that property; and

(ii) The proceeds of the sale or transfer of the property referred to in paragraph (f)(2)(i) of this section, if the Federal share of the fair market value of the property is not, in conjunction with that sale or transfer, properly accounted for and paid to the Federal Government.

(3) The services of Federal personnel.

(4) The sale or lease of Federal property or any interest in that property --

(i) At nominal consideration; or

(ii) At consideration reduced --

(A) For the purpose of assisting the recipient; or

(B) In recognition of public interest to be served by the sale or lease to the recipient.

(5) Permission to use Federal property or any interest in that property -- on other than a casual or transient basis -- without consideration.

(6)(i) Any other contract, agreement, or arrangement that has as one of its purposes the provision of assistance to any program or activity.

(ii) However, paragraph (f)(6)(i) of this section does not apply to a procurement contract.

3. Appendix A to Part 100 is amended by revising paragraph 21 of Part 1 to read as follows:

Part 1 - Assistance other than for State-Administered Continuing Programs

* * * * *

21. Grants to students in attendance at institutions of higher education (20 U.S.C. 1070-1070e-1).

* * * * *

The Secretary proposes to amend Part 104 of Title 34 of the Code of Federal Regulations as follows:

4. Section 104.2 is revised so that the current contents of the section become paragraph (a) and a new paragraph (b) is added to read as follows:

§104.2 Application.

(a) ***

(b) This part does not apply to a contract of insurance or guaranty, including --

(1) Guaranteed student loans (34 CFR Part 682); and

(2) Auxiliary loans to assist students (34 CFR Part 683).

5. Paragraph (h) of §104.3 is revised to read as follows:

§104.3 Definitions.

* * * * *

(h) "Federal financial assistance" means any of the following, when authorized or extended under a law administered by the Department:

(1) A grant or loan of money, including money made available for --

(i) The acquisition, construction, renovation, restoration, or repair of a building or facility or any portion of that building or facility; or

(ii) Scholarships, loans, grants, wages, or other funds--

(A) Extended to any entity for payment to or on behalf of students admitted to that entity; or

(B) Extended directly to those students for payment to that entity.

(2)(i) A grant of Federal real or personal property --including surplus property-- or any interest in that property; and

(ii) The proceeds of the sale or transfer of the property referred to in paragraph (h)(2)(i) of this section, if the Federal share of the fair market value of the property is not, in conjunction with that sale or transfer, properly accounted for and paid to the ~~the~~ Federal Government.

(3) The services of Federal personnel.

(4) The sale or lease of Federal property or any interest in that property --

(i) At nominal consideration; or

(ii) At consideration reduced --

(A) For the purpose of assisting the recipient; or

(B) In recognition of public interest to be served by the sale or lease to the recipient.

(5) Permission to use Federal property or any interest in that property -- on other than a casual or transient basis -- without consideration.

(6)(i) Any other contract, agreement, or arrangement that has as one of its purposes the provision of assistance to any program or activity.

(ii) However, paragraph (h)(6)(i) of this section does not apply to a procurement contract.

The Secretary proposes to amend Part 106 of Title 34 of the Code of Federal Regulations as follows:

6. Section 106.1 is revised so that the current contents of the section become paragraph (a) and a new paragraph (b) is added to read as follows:

§106.1 Purpose and effective date.

(a) ***

(b) This part does not apply to a contract of insurance or guaranty, including --

(1) Guaranteed student loans (34 CFR Part 682); and

(2) Auxiliary loans to assist students (34 CFR Part 683).

7. Paragraph (g) of §106.2 is revised to read as follows:

§106.2 Definitions.

* * * * *

(g) "Federal financial assistance" means any of the following, when authorized or extended under a law administered by the Department:

(1) A grant or loan of money, including money made available for --

(i) The acquisition, construction, renovation, restoration, or repair of a building or facility or any portion of that building or facility; or

(ii) Scholarships, loans, grants, wages, or other funds--

(A) Extended to any entity for payment to or on behalf of students admitted to that entity; or

(B) Extended directly to those students for payment to that entity.

(2)(i) A grant of Federal real or personal property --including surplus property-- or any interest in that property; and

(ii) The proceeds of the sale or transfer of the property referred to in paragraph (g)(2)(i) of this section, if the Federal share of the fair market value of the property is not, in conjunction with that sale or transfer, properly accounted for and paid to the the Federal Government.

(3) The services of Federal personnel.

(4) The sale or lease of Federal property or any interest in that property --

(i) At nominal consideration; or

(ii) At consideration reduced --

(A) For the purpose of assisting the recipient; or

(B) In recognition of public interest to be served by the sale or lease to the recipient.

(5) Permission to use Federal property or any interest in that property -- on other than a casual or transient basis -- without consideration.

(6)(i) Any other contract, agreement, or arrangement that has as one of its purposes the provision of assistance to any program or activity.

(ii) However, paragraph (g)(6)(i) of this section does not apply to a procurement contract.

Senator EAGLETON. If you had your way, would title IX be repealed?

Mr. JONES. No, I do not believe so.

Senator EAGLETON. What did you say?

Mr. JONES. No, sir.

Senator EAGLETON. If you had your way, would there be substantial substantive amendments to title IX?

Mr. JONES. Not that are in my mind at this point, sir.

Senator EAGLETON. Do you have in your mind any miniscule amendments that you would contemplate for title IX?

Mr. JONES. No, sir.

Senator EAGLETON. I am getting fairly near the end, Mr. Chairman.

Senator STAFFORD. I am glad to hear that.

Senator EAGLETON. Let us now get into the area of tuition tax credits. We have gone through at some length the various budget cuts in the upcoming budget in the area of public education, the whole list that we recited earlier. In light of those very deep and very substantial budget cuts for public education, what is the rationale of the administration with respect to tuition tax credits for private education?

Mr. JONES. First of all, Senator, I wish to preface my remarks on tuition tax credits with the one comment on our budget for the public school sector. We have heard that substantial cuts or draconian cuts will be made, and dire consequences will occur. The fact of the matter is, on a national average, the Federal Government's contribution to the public elementary and secondary schools is in the neighborhood of 9 percent. Our 30-percent reductions which were proposed in the 1982 and 1983 budget are the 30-percent reduction of the 9 percent. On a national average, you are talking about a 2.7-percent reduction at the local level, over a 2-year period of time.

That places this discussion in a little different context. Many people seem to think that we are advocating a 30-percent reduction of an operating budget of a local school system. We are talking on a national average of 2.7 percent.

This administration has advocated tuition tax credits because we are looking for tax equity for working families who wish to send their children to private schools. We do not see this as a budgetary tradeoff between the public and private school sectors. There is no indication of that in our budget, no consideration of it in our budget. It is simply that we believe parents who wish to choose to send their children to some school other than one that is public should be provided some form of tax equity.

Senator EAGLETON. They are not in the same portion of the budget; that technically is correct. When you make a budget submission for the Department of Education, you make a submission on the funding level for the existing educational programs. Tuition tax credit is a recommendation the President is making to amend the Internal Revenue Code. Yet both recommendations—the cuts in support for public education and a tuition tax credit—are made simultaneously by the President. So it is inevitable that one would be juxtaposed to the other.

Now, let me ask you this. You discount the cuts, for instance, in title I. The $3.1 billion to $1.9 billion. That is a $1.2 billion in gross dollars, but you say when you average that out on a per-student basis it was only $125 per student. Thus, by your reckoning, it is absorbable by the local school districts. If that amount of money is deemed to be educationally minuscule at the public level, then what does $100 tuition tax credit for the first year mean at the private level? If something is minuscule in the public sector and easily absorbable, why is it not just as miniscule and just as absorbable in the private level?

Mr. JONES. The tuition tax credit is a credit for parents. It is not support for institutions.

Senator EAGLETON. Would you not expect that if a $100 tuition tax credit went on the books that tuition for most private schools in the country would more than likely go up $100?

Mr. JONES. I do not believe that.

Senator EAGLETON. If that were the case, if that factually flowed from the enactment of a tuition tax credit, would you deem the $100 increase in tuition to be from an educational point of view a miniscule amount?

Mr. JONES. I have never deemed any particular amount of dollars at the local level that we have been talking about today as miniscule, Senator.

Senator EAGLETON. The point I am making is, you dismissed the notion that the cuts in funding for public education are really all that much worth worrying about, because they only amount to a paltry few dollars, by your definition, per student. Is there not some sense of evenhandedness to paltry?

Mr. JONES. We are talking about two different elements here, sir. We are talking, on the one hand, of dollars going to an institution at the public level, and we are talking about parents on the other simply keeping dollars in their pockets.

Senator EAGLETON. But if the tuition is raised $100, those dollars will not be in the pocket, will they?

Mr. JONES. I do not expect the tuition to be raised $100.

Senator EAGLETON. On September 10, 1981, Deputy Secretary of the Treasury McNamar, cited as being the first administration official to publicly raise constitutional concerns about the tuition tax credit, said, as follows:

"We don't want to do anything disingenuous, like pushing a bill and seeing it declared unconstitutional. That's silly," said Mr. McNamar. And he went on to say that a number of Justice Department officials had reservations similar to his. Do you or other officials at the Department of Education see any first amendment problems with the tuition tax credit proposal?

Mr. JONES. We believe that the tuition tax credit proposal will be proven constitutionally.

Senator EAGLETON. Have you discussed the constitutionality of it with officials from the Department of the Treasury and/or the Department of Justice?

Mr. JONES. There have been several officials within Education, OMB, Justice, and Treasury involved in proposing this legislation.

Senator EAGLETON. Are you aware of the Supreme Court case of rather recent vintage out of New York, Pennsylvania, and New

Jersey, wherein the Court has ruled tuition tax credits in those States to be unconstitutional?

Mr. JONES. I am aware of those cases, sir, yes.

Senator EAGLETON. But you think the Court will rule differently when faced with the tuition tax credit on the Federal level?

Mr. JONES. Yes, sir.

Senator EAGLETON. The President is on record as saying that he deems the flat-rate tax to be "very tempting." Of course, under a flat-rate tax, deductions, credits, and so on would be, if not totally, virtually eliminated. How do you square the President's view that a flat-rate tax is very tempting with the President's recommendation that we create a new credit in this area for tuition in the private schools?

Mr. JONES. Until we get that flat-rate tax, we ought to seek tax equity every chance we can.

Senator EAGLETON. And tax equity is generated by the creation of additional credits and additional deductions?

Mr. JONES. In this case, we are suggesting that tax equity would be accomplished by providing a tax credit to parents who wish to send their children to private schools.

Senator EAGLETON. In a press briefing on June 22, 1982, you suggested the cost in lost tax revenues for the tuition tax credit to be $100 million the first year, $600 million in 1984, and $1.5 billion in 1985. Other estimates of the cost of tuition tax credits under the administration's proposal run as high as a total of $4.3 billion over the first 3 years. Your first-3-years total would be $2.2, while other estimates have it up as far as $4.3 billion. How do you arrive at your cost estimates?

Mr. JONES. If I said that on June 22, Senator, I misspoke. It is $100 million for 1983, it is $600 million for 1984, it is $1 billion for 1985, it is $1.4 billion for 1986, and $1.5 billion for 1987.

[NOTE: The Treasury estimates as of August 6 are as follows: 1983, less than $50 million; 1984, $400 million; 1985, $900 million; 1986, $1.3 billion; 1987, $1.3 billion. Therefore, the total cost for the first 3 years would be a little more than $1.3 billion.]

Senator EAGLETON. So, $100 million, $600 million, and $1 billion would be the first 3 years?

Mr. JONES. Yes, sir.

Senator EAGLETON. So that totals $1.7 billion, whereas the Coalition for Education and other outside sources say that the figure for those same first 3 years would be $4.3 billion. That is quite a disparity between $1.7 and $4.3 billion. Do you have any explanation as to why there is that enormous disparity?

Mr. JONES. Some people have looked at an expenditure in excess of $4 billion as the total projection that we have, Senator, as opposed to the first 3 years.

Senator EAGLETON. I have it for the first 3 years. By the way, since the credit would be created, and it does not have a sunset date, the total projections for the credit would be infinite.

Mr. JONES. We see the $1.5 billion figure as the total when the tax credit is fully implemented. I do not have any idea how people could come up with a figure in excess of $4 billion on our proposal in the first 3 years.

Senator EAGLETON. Would it change your views as to the efficacy of proposing the credit at this time if you found that your $1.7 billion estimate over the next 3 years was considerably on the low side?

Mr. JONES. Senator, our submission of the tuition tax proposal to Congress is a matter of philosophy of Government that the President has, and it is not a budgetary matter.

Senator EAGLETON. It is not a what?

Mr. JONES. It has not been proposed as a budgetary matter. It has been proposed by the President based on his philosophy of Government. He wants to provide tax equity to parents who send their children to a private schools.

Senator EAGLETON. There is an area of philosophy that does have a budgetary impact. If you are going to give somebody a tax credit, that means there is going to be less revenue brought into the Federal Treasury by reason thereof. So you can call it philosophy. Indeed, you can call it equity. You can call it fairness. You can call it motherhood. Call it anything you want, but it does have an impact on the budget. Any time you create a new credit or a new deduction for an activity, it means less revenue is brought into the Federal Treasury thereby. Once again, is not the budgetary ramification of the proposal inescapable and unavoidable?

Mr. JONES. We are sensitive to it, but we believe that the tuition tax credit is a form of tax equity that parents should have if they choose to send their children to private school.

Senator EAGLETON. You are sensitive to it, but you seem to slough it aside in that area, "Oh, well. It's $1.7 billion over 3 years." But yet, in the earlier part of your testimony, you were rather proud of the fact of the budget savings you were making in the public education area.

Mr. JONES. We are talking, again, about two different elements, Senator. I am talking about——

Senator EAGLETON. Oh, no. I am talking about money. I am talking about money coming into the Treasury and money going out of the Treasury. If more goes out than comes in, it is called a deficit. So, if you are going to take in less out of Federal income tax returns, by your own reckoning over the next 3 years of a 1.7 billion, by the reckoning of some others as high as 4.3 billion, that is going to have a budgetary impact. That is going to add to the deficits already in existence. Is that not as true as night follows day?

Mr. JONES. There would be less revenue coming in, that is for sure. Whether it is going to add to the deficit or not, we will have to wait and see.

Senator EAGLETON. It is certainly going to add to any deficit now contemplated or expected. It is going to add at least a 1.7 billion, by your own reckoning, and maybe as high as 4.3 by other people's judgment. That has a budgetary impact; right?

Mr. JONES. It does that, yes.

Senator EAGLETON. All right. Handicapped education. The Department has distributed a briefing paper on deregulation of Public Law 94-142, the Education for All Handicapped Children Act. The paper was issued in September 1981. At that time, there was some consultation with members of the education community regarding specific areas of the law which were targeted for deregulation. I

understand that the Department is now about to issue proposed regulations for Public Law 94-142. Has the Department had any further consultation, in addition to those initial discussions last year, with outside interest groups?

Mr. JONES. We have carried on, I believe, quite consistent communication with outside interest groups, Senator.

Senator EAGLETON. So those discussions that started last year in 1981 have been ongoing and continuing discussions with outside interest groups on this subject matter up through 1982 as well?

Mr. JONES. Yes, sir.

Senator EAGLETON. When will the proposed regulations for Public Law 94-142 be published? Are they languishing also?

Mr. JONES. They are forthcoming, Senator.

Senator EAGLETON. Forthcoming. I mean, in the reasonably-anticipated future?

Mr. JONES. We would hope within the next couple of weeks.

Senator EAGLETON. All right. I have here a memo dated March 30, 1982, United States Department of Education, Office of General Counsel. I will read it and put the whole memo in the record. It is not terribly long, Mr. Chairman.

Senator STAFFORD. Without objection, it shall be.

Senator EAGLETON. It is on the letterhead of the Department of Education, Office of General Counsel, March 30, 1982. It is a note to Tom Anderson. Who is Tom Anderson?

Mr. JONES. He is Deputy General Counsel.

Senator EAGLETON. And it is from a fellow named Joe Beard. Do you know who he is?

Mr. JONES. Yes, sir. He is also a Deputy General Counsel.

Senator EAGLETON. So Joe writes to Tom:

> I have been giving some consideration to the possibility of congressional opposition to our deregulation efforts with respect to part B of the EHA——

That's the Handicapped Act; right?

> The law requires that we send up for our final regulation for approval by the Congress, but it does not say we have to send it up all in one part. Might it be a good idea to consider sending it up in two or more packages, with the less controversial part in one package and the more controversial parts in several packages? In this manner, certain controversial parts will not kill off the less controversial parts, and also, we may be able to divide the enemy. A coalition may be put together to kill our regulation on the basis of three or four controversial issues, none of which might be able to muster a majority against us if they were voted upon alone. By forcing separate votes, we may be able to pull it off. On the other hand, Congress may find this to be a trick, which it definitely is, and may react negatively. However, two or three packages might be able to be justified. Love, Joe.

No, strike the love.

Now, first of all, "we may be able to divide the enemy." Who is the "enemy"?

Mr. JONES. Senator, if I may, we are aware of the existence of that document, and neither the Secretary nor I accept or condone it. We do not want anyone to believe that this represents the position of the department. Moreover, Mr. Anderson responded to that memorandum on April 6.

[The material referred to follows:]

UNITED STATES DEPARTMENT OF EDUCATION
WASHINGTON, D.C. 20202

April 6, 1982

TO : H. Joseph Beard
Deputy General Counsel

FROM : Thomas C. Anderson
Special Counsel to the Secretary

SUBJECT : Revised Regulations Under EHA-B (P.L. 94-142)

I have considered your note of March 30, on submission of revised regulations for Congressional review. While I agree there may be a "possibility of Congressional opposition" to the revised regulations, I feel that the package, as presently drafted, represents a balanced approach.

I feel that there may be both opposition and praise from handicap advocates, and State and local recipients alike. Most of the proposed changes would result in reduction of administrative and reporting burdens without any diminution of services or protection for handicapped students.

In short, I feel that the regulatory changes will stand on their own as being timely and reasonable modifications. I recommend sending the entire package to Congress in the normal manner.

Of course the Congressional veto described in Section 431 of GEPA applies to final regulations. Inasmuch as we are currently dealing with an NPRM that will be subject to a public comment period of at least 30 days, it is not likely that we will publish a final rule before fall of this year.

Tom

THOMAS C. ANDERSON

cc: Daniel Oliver
Anne Graham

Senator STAFFORD. If the Senator would yield, this reminds me of those old statements about "written in haste and repented at leisure."

Senator EAGLETON. So the Department does not contemplate sending these regulations up in hunks or divisible packages; is that correct?

Mr. JONES. Yes, sir. That is correct.

Senator EAGLETON. And they will be sent up within the next couple of weeks, you think, roughly?

Mr. JONES. As I suggested earlier this morning, sometimes the executive branch is a little ponderous. We are rapidly approaching, I believe, the point where we can submit those regulations.

Senator EAGLETON. Well, I concede that executive branches, throughout history, have from time to time been ponderous. In that generic sense, this administration is no different than predecessor administrations. However, this administration is ponderous about the things that it finds it convenient to be ponderous about. It is more expeditious in subject matters where it finds it to its political benefit to be expeditious. Ponderousness, like beauty, is in the eye of the beholder. I think the record will show that in areas of civil rights enforcement and areas of equity for the treatment of the handicapped, in terms of equity for the treatment and education of disadvantaged students, and so on, this administration is intentionally and willfully ponderous, because that is its mind set. In other areas, it finds it to its own advantage to be expeditious. I think the ponderousness relates more to motivation than it does to bureaucratic lethargy.

That is all I have, Mr. Chairman.

Senator STAFFORD. Thank you, Senator.

The Chair is about to adjourn the meeting, but I might ask you, doctor, is Joe Beard still at the Department of Education, or has he been shorn from the staff?

Mr. JONES. He is still there, sir.

Senator EAGLETON. I have one other point, Mr. Chairman. I am very serious indeed about expecting from the nominee that draft letter or that memorandum or proposal to the superintendent of the Detroit schools. That was not just a forensic exercise, so far as I was concerned. I am curious, indeed more than curious, about the new ideas that this administration can impart to school superintendents of beleaguered urban schools, in light of the enormous cuts in Federal aid that will be flowing to those urban schools. I expect and anticipate receipt of that memorandum. I think we also asked during the questioning for some other follow-up material which the nominee said would be forthcoming. But I highlight the Detroit matter. He can address it to St. Louis, or both, as I think it has some relevance on this nomination.

Second, Mr. Chairman, I ask unanimous consent that the series of questions in writing to be propounded to the nominee for his answer in a reasonably timely way before the executive markup of this nomination. I ask generically that any additional questions by any Senator on this committee which the Senator wishes to propound to the nominee be included in the record and be transmitted to Dr. Jones for his response.

Senator STAFFORD. Without objection, that request is granted. The Chair would point out that Senator Hatch, the Chairman of the full committee, did reserve that right to Senators in his opening statement.

[Additional questions and responses submitted for the record follow:]

Senator Robert T. Stafford

Campus-Based Student Aid Programs

1. Earlier this year, the Department issued a proposed regulation governing the distribution of funds to colleges and universities under the so-called "Campus-based" student aid programs - NDSL, SEOG, and College Work-Study. Although this proposed regulation is not yet final, and we are past the July 1 date in which campus-based distributions to schools are usually made, it is my understanding that the Department intends to make these distributions under the proposed regulation rather than under the current regulation which, as you know, is law. On what grounds is this being done? Even if the proposed regulation is to be finalized, Congress must still take 45 days to review it before it is promulgated, as mandated by law.

   ANSWER: The Department does not intend to make final awards to post-secondary institutions for the Campus-based student aid programs (Supplemental grants, Work-Study, Direct Loans) based on proposed regulations. Final rules will not be issued or awards made until the 45 day Congressional review period has elapsed. We will, of course, be interested in all Congressional comments on the proposed rules.

   During the interim period before final regulations are effective, institutions will be authorized limited funding to support awards under these programs. This authorization will be based on the current regulations. For Supplemental grants and Work-Study, institutions may withdraw limited funds from the appropriate payment account. The amount authorized is approximately 50 percent of the estimated final award. For Direct Loans, institutions may make loans to students from the institution's revolving fund which consists of collections from prior loans. This partial allocation for the Campus-based programs will provide a source of student aid funds during the transition period from the beginning of the award period, July 1, until the proposed regulation is finalized and complete allocations can be awarded.

2. I am informed that the final regulation may contain provisions to allow the Secretary discretion in determining the Federal capital contribution allotted to campuses in the National Direct Student Loan program. Would you tell us what the basis of this discretion will be, and can you assure us that schools and students will receive a fair and equitable distribution of NDSL funds if such discretion is used?

   ANSWER: The final regulations, which will determine the institution's 1982-83 Federal capital contribution under the Direct Loan program, do not provide for Secretarial discretion in the distribution of funds. The distribution is based on a specific calculation which considers the institution's expenditures under the program in the base year, the financial need of the enrolled students (cost of attendance at the institution minus financial strength of the enrolled students and their parents), anticipated collections to the institution's revolving fund from former loans, and the institution's default rate. These data comprise the calculation which determines the institution's Federal capital contribution and cannot be modified by the Secretary.

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Senator Paula Hawkins

1. Is it your view, Mr. Jones, that State and local officials have the primary responsibility for education decision-making in this country and ought to be given considerable discretion in operating federally funded programs?

ANSWER: Yes, to the extent permitted by law. However, we must limit that discretion if Congress has enacted laws to the contrary. That is why we favor block grants.

2. In that regard, let me ask you to briefly comment on a couple of statements which the U.S. Department of Education made in the Federal Register on February 12 of this year:

> First of all, the preamble to the proposed regulations of Chapter 1 of the ECIA stated that "[t]o the extent feasible, the Secretary will give deference to an SEA's interpretation of a Chapter 1 requirement if that interpretation is not inconsistent with the Chapter 1 statute, legislative history, and regulations."

Do you agree with the sentiments expressed in that statement?

> Secondly, section 298.14 of the proposed regulations for Chapter 2 of the ECIA reads as follows:
> "§298.14 Availability of funds.
> (a) An SEA or LEA may obligate funds during the fiscal year for which the funds were appropriated and during the succeeding fiscal year.
> (b) The time at which funds are considered to be obligated is determined according to standards commonly used in the State in which the SEA or LEA is located."

Do you feel that it is appropriate to use State standards to determine when funds are considered to be obligated?

ANSWER: First, I do agree with the sentiments expressed in the preamble. One complex Federal statute such as vocational education law or P.L. 94-142 makes it impossible to adjust to the needs of 50 States with laws written by 50 legislatures. That is why the block grant is a good concept.

To the extent consistent with underlying Federal law, I believe it is appropriate to employ State standards to determine when Federal funds are obligated. One of the purposes of the ECIA, of course, is to enhance the ability of States and LEAs to address their educational needs and priorities through the elimination of unnecessary and unproductive Federal requirements. This statutory theme of increasing State and local discretion makes it particularly appropriate that the ECIA regulations refer to State standards for determining what programmatic or administrative transactions constitute obligation of funds. The final ECIA regulations clarify, however, that this flexibility does not eliminate the need for the States and locals to obligate ECIA funds on a timely basis, or return them to the Federal Treasury.

Senator Paula Hawkins

3. The citation of authority that is given for section 298.14 of the proposed Chapter 2 regulations is section 412(b) of GEPA, which is commonly referred to as the Tydings Amendment. Are you familiar with the Tydings Amendment?

(If he says no, indicate that the Tydings Amendment was enacted in 1970 to allow State and local officials ample time in which to plan for and carry out the effective expenditure of federal funds. The Tydings Amendment accomplished this by extending the permissible time for those agencies to expend federal funds. In summary, it permitted obligation of those funds in the fiscal year in which they were appropriated or in the succeeding fiscal year.)

ANSWER: Yes, I am familiar with the Tydings Amendment.

4. Are you aware that your Department's Audit Agency has made huge audit findings against a number of States based upon a retroactive construction of the Tydings Amendment which is totally inconsistent with the interpretations and instructions of the Federal program officials?

ANSWER: I am aware that audit findings relating to the Tydings Amendment are being discussed by the Office of Vocational and Adult Education, the Office of General Counsel, the Office of Inspector General and other offices in the Department.

5. Are you aware that two of your Department auditors, never having conducted an education audit before, have told the State of Florida:

   a. How to run their State administered program under the Vocational Education Act (VEA);

   b. How to define "project period;"

   c. That any project exceeding 12 months will result in the Federal project being converted to a State project which means that Federal funds spent under the project must be returned to the U.S. Treasury;

   d. That the State must return approximately $28 million in VEA funds despite the fact that no funds were misused, fraudulently wasted, or spent in violation of the program enabling legislation?

ANSWER: I am aware that the auditors have made recommendations concerning the vocational education program in Florida. The recommendations are advisory in nature and are not binding on the Secretary of Education. The Department is currently performing a thorough review of the audit report, after which decisions will be made about actions to be taken.

Senator Paula Hawkins

(5. continued)

Concerning the qualifications of the auditors, the Inspector General Act of 1978 requires the Department of Education, Office of Inspector General, to comply with the audit standards established by the Comptroller General of the United States. These standards are stated in the Comptroller General's "Standards for Audit of Governmental Organizations, Programs, Activities, and Function," dated February 27, 1981. One of the general standards require that "The auditors assigned to perform the audit must collectively possess adequate proficiency for the tasks required." The standard sets forth the qualifications for persons performing government audits as follows:

1. A knowledge of accounting and auditing theory and procedures and the education, ability and experience to apply such knowledge to the type of audit being done.

2. A knowledge of Government organizations, programs, activities and functions which may be acquired by education, study, or experience.

3. The skills necessary for the audit.

The auditors assigned to the Florida vocational education audit met these standards and acquired a knowledge of the vocational education program -- operations, regulations, statutes, and guidelines as required by the audit standard. They also reviewed other more general laws and regulations as applicable. In addition, the audit report issued reflects the experience and judgment not only of the two auditors to whom you refer, but other employees of the Inspector General's office.

6. I would like to give you a brief description of the VEA funding process in the State of Florida and then ask you a couple of questions with respect to the application of the Tydings Amendment.

Assume that you are a local program director. Before the beginning of the school year in September, you submit a local application to the State requesting VEA funds for a project. The State approves the application, but, due to the delay in receiving the Federal funds, the State does not send the Federal funds to you until February. Due to this late funding, the State authorizes you to carry the project and the funds over past June 30 into the next school year.

Mr. Jones, are you aware of any statute or regulation which would support your auditors' view that, in order to have the second year of availability, the local district must actually close the VEA project down on June 30 and submit a new VEA application describing how the carryover funds will be used?

Don't you agree that such a process is unduly burdensome and in fact quite ridiculous?

Senator Paula Hawkins

(6. Continued)

Are you aware of any basis for the auditors' unique view that extending the original 12 month VEA project beyond June 30 converts it to a State project?

ANSWER: The auditors' recommendations concerning this matter, along with pertinent laws and regulations, are presently being reviewed by the Department and a final decision has not been reached.

The auditors' view, as I understand it, is that the regulations require that carryover funds be used in accordance with "Any State plan, or application for a subgrant, that the State or subgrantee is required to submit for the carryover period." Since the vocational education program requires an annual application, the auditors have recommended that, in accordance with the cited regulation, subgrantees resubmit applications for the use of the carryover funds.

7. Are you aware that the Office of Vocational and Adult Education within your Department does not agree with the Inspector General's position with respect to the application of the Tydings Amendment to the VEA funding process?

ANSWER: I am aware that there are discussions ongoing concerning the Inspector General's audit report findings.

8. Do you feel that it is fair and reasonable to demand that a State return funds to your Department in a situation where no one -- including the auditors -- is saying that the funds were misused, fraudulently wasted, or spent in violation of the program statute or regulations?

ANSWER: The Department has not yet made a final determination on action to be taken on the audit findings pending review of all the circumstances and issues. All laws, both general and program related, applicable to the activities under the program must be considered and complied with.

9. Don't you think, Mr. Jones, that, if the U.S. Department of Education is going to adopt the auditors' overly rigid view of the Tydings Amendment instead of continuing to hold the views which the program officials have expressed over the years, this type of drastic change in policy ought to only be applied in the future, rather than retroactively?

ANSWER: The issues are still being reviewed, however, we must assure that applicable laws have been complied with.

Senator Paula Hawkins

10. In January of this year, your predecessor, Mr. Clohan, assured our State Superintendent of Education, Dr. Ralph D. Turlington, that, prior to the issuance of a final determination letter concerning the Florida VEA audit, he would be contacted and informed of the proposed position of your Department. Will you honor Mr. Clohan's commitment?

ANSWER: I would be happy to assure that Dr. Turlington is informed of the final determination at the time of issuance.

11. In light of the fact that it has now been over six months since the Office of the Inspector General issued the final audit report concerning the Florida VEA audit, when do you anticipate the Department will announce its position concerning the auditors' interpretation of the Tydings Amendment?

ANSWER: The legal issues raised in this matter are unique and are still being reviewed by Department officials, including the Office of General Counsel and the Inspector General. Recommendations will be made to the Secretary by General Counsel and the Inspector General as to the position the Secretary should take. These recommendations will be made around the end of August.

Committee on Labor and Human Resources

Education Regulations

1. The Department used the 1970 census data as the basis for the child count for funding under Chapter 1 (Title I) of the Education Consolidation and Improvement Act of 1981. What was the basis for that decision?

ANSWER: The statutory requirement governing data to be used in allocating funds under Chapter 1 of the Education Consolidation and Improvement Act of 1981 (ECIA) states that those data shall be "...the most recent satisfactory data available from the Department of Commerce..." (20 U.S.C. 2711(c)(2)(A)). At the time of the decision last May, the Secretary concluded that satisfactory 1980 census data would not be available early enough to use as the basis for allocating Chapter 1 funds for school year 1982-83. That decision was based on a number of considerations:

1. The Secretary was concerned that waiting for receipt and processing of 1980 census data would have delayed the announcement of fund allocations to participating school districts. Since school districts use this information to set budgets, make employment decisions, and plan Chapter 1 projects for the following school year, any delays would have caused undue hardship on the schools. Indeed, the reason this program is advanced-funded is to provide this needed time.

2. Until the end of April, the Census Bureau had indicated that 1980 county data would not be available until fall 1982. Later this estimate was changed to June. However, Census indicated the data that would become available in June would not include Puerto Rico, which must be treated as a State for purposes of Chapter 1 allocations. The Department has never used different data sources for different States. To do so would raise serious questions of legality and equity.

3. At the time of the decision, the National Center for Education Statistics (NCES) estimated that it would take at least four to six weeks to process the data. In addition to verifying the accuracy of tables provided by Census, adjustments would have to be made for approximately 25 counties which have been modified, abolished, or created since 1970 in order to assure the application of the 85 percent "hold harmless" provision for school districts between the previous year and the current year. This would have further delayed the allocation of Chapter 1 funds.

Committee on Labor and Human Resources

Education Regulations (1. cont.)

4. After allocations are made to the States, the State education agencies (except in the relatively few States that have only county-unit school districts) must make sub-allocations to school districts. These sub-allocations require added time at the State level. Over half of the States use census tract data to make within-county sub-allocations. These States would not have had 1980 census tract data available until possibly January 1983 and would be forced to make allocations based on old data or to design a new basis for allocation.

   In addition, seven States which have almost 25 percent of the school districts served, use a provision of law allowing direct allocation from State to school district where there are a large number of districts crossing county lines. That authority requires that these States use exactly the same data base that the Department used for making the county allocations. These States could not have begun to allocate until the 1980 census tract data were received, once again, possibly early in 1983. It would have been difficult, if not impossible, for them to develop another legally permissible system in the interim.

5. The Department is not extending the use of the 1970 census data beyond its normal 10-year cycle. The census data were first used in 1973-74 and will not be used after 1982-83.

6. Finally, other possible legal and administrative problems could have arisen. For example, the Census Bureau may have used unacceptable criteria for poverty which are inconsistent with the Chapter 1 law. Although such problems can be resolved in the coming year, at the present time they would have added to the difficulty in using 1980 census data.

Did you have a personal role in the decision?

ANSWER: The Secretary made the decision after consulting with senior members of his immediate staff and senior staff from the Office of General Counsel.

Was the education community consulted before the decision was made?

ANSWER: As early as February 12, 1982 a statement in the introduction to the Chapter 1 regulations in the Federal Register indicated "It is unlikely that poverty data from the 1980 census will be available before the end of next summer. It is the Department's current intention to use 1970 census data in determining county aggregate allocations of Chapter 1 funds for the 1982-83 school year."

Committee on Labor and Human Resources

Education Regulations (1. cont.)

What steps is the Department taking in response to the court decisions to overturn the Department action?

ANSWER: As a result of the preliminary injuction issued by United States District Court Judge Norma Johnson on June 30, 1982, which enjoined the Department from distributing any Chapter 1 funds for school year 1982-83 based on 1970 census data, the Department allocated 85 percent of Chapter 1 funds to the States in accordance with the "hold harmless" provision of the statute (Section 193 of the Elementary and Secondary Education Act), pending resolution of the issue.

This decision was appealed by the Department, and a decision handed down by the United States Court of Appeals for the District of Columbia Circuit on July 23, 1982 dissolved the earlier injunction. As a result of this decision the Department is now preparing to allocate the remaining Chapter 1 funds based on 1970 census data.

When will these funds actually flow to the states?

ANSWER: Eighty-five percent of the Chapter 1 funds have been allocated and are flowing to the States. As a result of the decision made by the Court of Appeals, the Department has allocated the remaining Chapter 1 funds based on 1970 census data.

2. The Education Consolidation and Improvement Act of 1981 provides that state education agencies may receive Chapter 2 (Block Grant) funds as of July 1, 1982. However, states are required to submit an application setting forth the planned allocation of funds, or a formula for within-state distribution.

Since the final rules for Chapter 2 have not been published, and it is now July 19, how can the Department proceed to approve state formulas and allocate funds without clarification, guidelines or criteria for the formulas?

When will the final rules for Chapters 1 and 2 be published?

ANSWER: Sections 564 and 565 of the statute are very specific about State application requirements and the Federal role. The Department is only required to approve the State criteria for allocation of funds to local educational agencies, not the allocation of dollars to agencies or programs. The Secretary has not required any specific form for the application which has made it simpler for States to comply with the requirements. Chief State School Officers have been apprised of, and involved in, the Chapter 2 regulations development. Since the publication of the NPRM for Chapter 2, the Department has provided technical assistance to States on complying with Chapter 2. The NPRM provided the basic guidance and examples of criteria needed by States to develop the required allocation formula. The final regulations for Chapters 1 and 2 of ECIA were published on July 29, 1982.

Committee on Labor and Human Resources

Higher Education

1. We have heard much concern expressed from financial aid administrators on college campuses about the impact of the new "validation" process for students applying for Pell Grants. It is our understanding that the Department implemented this process, which requires students to submit a copy of their parents' tax return to the financial aid office, before receiving Congressional approval. Not only do we have great concerns about the privacy issues involved in requiring release of several million tax returns, but the timing of the process will create long delays in needy students receiving their aid. The Department did not provide guidelines to financial aid officers until early July, several months after students were told to submit their 1040 forms. Isn't it true that a major backlog in processing Pell Grants to students will occur because of this process?

   ANSWER: The regulation establishing Department authority to require institutional validation of Pell Grant applications against IRS returns was first issued in January of 1979. Institutional validation efforts have been required each year since then. The Congress has not objected to the regulation or the procedure. The only difference between this year and previous years is the increased magnitude of the effort which we believe is justified by recent findings of the Pell Grant Quality Control study.

   The Department of Education requested an amendment to the Continuing Resolution, a reprogramming of Pell Grant funds, and finally, supplemental FY 1982 funding to carry out a 100 percent validation of all Pell Grant eligible applicants. In order to begin processing in mid-March on schedule, the Department instructed the application processor in March to notify eligible applicants to bring copies of their or their parents Federal tax returns to the institution when they return to school in the fall. If the Department had not included this instruction when the SAR was sent to the student, and the Congress subsequently approved funds for a 100 percent validation, millions of students would not have been notified of this requirement. Note that actual validation is performed by the student financial aid officer only after the student receives his or her award during the school year. I believe that in notifying students to have IRS documents available, the Department acted in a responsible managerial fashion. Pell Grant processing, which began in March, was not delayed in any way due to the validation effort.

   Financial aid officers were informed of Departmental policy in early July, shortly after the final validation policy was established. Only the 1,800,000 students selected for validation will be required either to submit a signed copy of the 1981 U.S. Income Tax Return or to verify, by signing a statement, that a tax return was not filed. These students, and only these students, will be required by the financial aid officer to present this information in order to receive their Pell Grant awards.

Committee on Labor and Human Resources

Higher Education (1. cont.)

Validation, as it occurs on the campuses, will present little or no delay in disbursements to students. If the student's adjusted gross income reported on the Pell Grant application is verified by the amount reported for income tax purposes, the student will receive his or her award according to the institution's normal disbursement schedule. A student whose eligibility index is based on income not verified by the 1040 Form will be required to resubmit the application form for reprocessing.

The Department is confident that institutions will continue to protect the privacy of students and parents in using the Federal income tax return. Institutions have been validating Pell Grant and other aid applications for some years using the Federal tax return. The individual's privacy is protected by the Family Educational Rights and Privacy Act of 1974 (FERPA), also known as the Buckley Amendment (20 U.S.C. 1232g). This act controls and restricts an educational institution's maintenance, use, and disclosure of personally identifiable information found in a student's educational record. Without the prior consent of the individual, an educational institution may not disclose this information to third parties except as specified by law. Some of the authorized disclosures that an educational institution may make include the following: to its own officials who have a legitimate need for this information, as in the case of financial aid administrators; to authorized representatives of the Comptroller General or the Secretary of Education; or in response to a court order or subpoena.

2. Isn't it true that the study prepared for the Department, upon which the whole validation process is being based, was found to have faulty conclusions, and had to be redone?

ANSWER: The Quality Control Study, to which you refer, was performed only once, and the study's conclusions were never altered. The study was never found to have faulty conclusions. In fact, the Quality Control Study definitively corroborated the findings of previous studies which showed that substantial sums of money, hundreds of millions of dollars, have been overawarded or underawarded each year in the Pell Grant program.

The statistical analysis of the basic data was refined between the early draft version and the subsequent final version of the study, producing slightly reduced levels of estimated dollar error. This has led to some confusion. The reduction in the overall dollar error which appears in the final version should in no way place in question either the methodology or the conclusions of the study. The final analysis was somewhat more conservative in methodology than the draft version, yet it still showed that student reporting error resulted in overawards of $270 million and underawards of $48 million. I would also like to mention that the contractor has stated that the magnitude of overawards is somewhat understated due to the data collection methodology.

Committee on Labor and Human Resources

Higher Education (cont.)

3. Why does there appear to be such a chronic delay in submitting to Congress the needs test for the Guaranteed Student Loan program? What actions can the Department take to make sure that future needs tests will be submitted by April 1, as required by law, and will not be more than a month late?

ANSWER: The need analysis requirement was contained in the Post-secondary Student Assistance Amendments which were signed into law August 13, 1981. The Department published the Family Contribution Schedule for academic year 1981-82 within one month, on September 11, 1981. The Schedule was amended within eight months (on May 3, 1982) for the 1982-83 academic year.

Both the 1981-82 and the 1982-83 Schedules provided that the GSL applicant's "expected family contribution" (EFC) would be calculated using either an approved Campus-based need analysis method or a simplified "table look-up" method. This latter method relies on tables promulgated in the regulation which take into account four basic elements: family adjusted gross income, family size, number of family members in postsecondary institutions, and dependency status of the student. The tables are designed to parallel typical case results of the "Uniform Methodology" (UM), which is the most widely-used private need analysis method approved for the Campus-based programs.

We intend to continue this system of EFC calculation, with its reliance on the UM, for 1983-84. The UM incorporates the most important factors specified in the Conference Report accompanying the 1981 Amendments. It is developed by and has the support of the financial aid community. It will ensure consistent treatment of family resources for both the GSL and Campus-based programs. Moreover, this linkage of GSL need analysis to the community developed system used for the Campus-based programs has been endorsed twice by Congress.

The structure of the UM is usually established by the private need analysis services and financial aid community representatives by the end of March. Our GSL "look-up tables" can be generated shortly thereafter. This year, however, final community decisions on the UM were delayed several months, and the tables used for GSL needs analysis were not available until very recently. As a result, we have had to delay publication of the proposed 1983-84 GSL need analysis regulation. We expect a complete package will be ready for publication by the end of August.

Committee on Labor and Human Resources

Higher Education (3. cont.)

Since we expect to continue the same basic approach to GSL need analysis beyond 1983-84, it is probable that we would continue to miss the April 1 deadline -- although probably not by more than a few months -- if this date remains in the law. It is unrealistic to expect that we can prepare regulations by April 1 if private community decisions affecting the UM structure are normally not made until the end of March, or later. Our legislative proposals to reform and "decouple" the student aid analysis systems (submitted to the Congress on July 23, 1982) would eliminate this unrealistic statutory deadline.

4. The Department has reduced several services available under the Pell Grant program. Among these were elimination of several toll-free lines for students to call to receive help on questions and problems they had on their student aid applications, extending the time it takes to process an application for student aid, and eliminating the reminders sent to students who need to have their applications reprocessed. All of these changes seem penny-wise and pound-foolish. They will all result in delays in timely notification of students about their aid and create confusion among students at a time when they need more, not less, help in coping with reduced aid dollars. Could you explain the rationale for these decisions?

ANSWER: A number of services under the Pell Grant program provided by the application processor were reduced as cost-saving measures. These cost reductions were necessary due to unexpected cost increases in the application processing contract held by the Systems Development Corporation (SDC).

The changes will reduce costs by approximately $2.6 million for academic year 1982-83. For example, in order to reduce overtime expenses the contractor will work five days per week, two shifts per day rather than seven days per week, three shifts per day as required at times last year. This will extend the processing time somewhat during the peak spring period, but it is expected that the turnaround time will return to normal by mid-August.

Elimination of the toll-free number to SDC will produce substantial savings, yet should not impair program service. Students will still be able to call SDC at their own expense in order to check on the status of their applications. This service was not originally intended to be used to answer general questions the student may have about the program or to provide assistance to the student in completing the application. Such assistance should be provided by the student financial aid officer.

Committee on Labor and Human Resources

Higher Education (cont.)

5. As you are aware, the Congress sets the legal parameters within which the Department operates. Underlying these parameters is the expectation that the Department will work closely with the Congress. For example, student aid application forms and their development should be prepared in a spirit of cooperation. How do you foresee the working relationship between Congress and the Department? What role do you believe Congress should play in the operations of the Department?

ANSWER: This Administration and the Department of Education are committed to the continued development of a close and constructive working relationship with Members of Congress and their staffs. Such a relationship is the best way to ensure successful execution of our respective roles in the fulfillment of our mutual goal of serving the American people.

In the area of Federal education policy and program administration, we in the Department have made special efforts to work cooperatively with our colleagues on the Hill. Specific activities have ranged from Secretarial consultation with members to legislative briefings for staff. Such activities are valued within the Department as both instructive and helpful in expediting the delivery of financial assistance.

While you can expect the Department's Congressional liaison efforts to continue with my full support, I do believe that Congressional consultation has some natural and appropriate limits, and that the respective domains of the Executive and Legislative Branches of the government need to be acknowledged and respected. For example, I do not believe it would be appropriate or feasible for members of Congress or their staff to become closely involved in the day to day administration of the Department's programs. Nor do I believe that the Congress should be involved in the internal formative period of most Department budgetary and policy decisions.

As you know, this Administration views as contrary to the Constitution statutory provisions which require legislative approval of Executive Branch regulations. Our legislative proposals in student aid and other areas will be consistent with that policy. Nevertheless, I want to assure you that the Department and I personally will always do our best to honor Congressional intent and to satisfy Congressional concerns regarding Department policies and regulations.

Committee on Labor and Human Resources

Higher Education (cont.)

6. In section 483 of the Education Amendments of 1980 the Congress attempted to encourage and to facilitate consultation and communication between the Secretary and the higher education community in areas where the community's technical expertise was considered crucial to the development of policy and program criteria. I understand that representatives of the community, alarmed at the delays affecting the 1983-84 student aid delivery cycle, have arranged a meeting, including Congressional staff, in which the Department is refusing to participate. Can you comment on this situation?

ANSWER: The Department staff has always been prepared to meet with representatives of the higher education community to exchange ideas and discuss policy and program issues. I have no information indicating that Department staff have refused to participate in such efforts. In particular, a meeting was held with the National Student Aid Coalition in July on the development of the 1983-84 student aid delivery cycle with the Deputy Assistant Secretary Edward Elmendorf and myself present. I expect the 1983-84 Pell Grant process to proceed as scheduled.

Emergency School Assistance Act

1. Can you tell the committee how many states have indicated an intention to adjust their block grant formulas to take into consideration desegregation activities, both court-ordered and voluntary? How many states have indicated any intention of targeting a portion of the state's discretionary funds for desegregation activities?

ANSWER: Of the 49 approved Chapter 2 State distribution formulas, five States have applied "high-cost" factors related to desegregation activities: Connecticut, Michigan, Washington, New Jersey, and New York. The Department has not yet finished analyzing State applications as to their planned use of their 20 percent set-asides; some general information may be contained in the State applications regarding funding for desegregation-related activities. The Department will share those findings with Congress when the analyses are complete.

Additionally, the Department is planning to assess the effects and the implementation of Chapter 2 at the local and State levels. These studies will provide more information about the States' use of their set-asides to support desegregation-related activities.

Committee on Labor and Human Resources

Emergency School Assistance Act (cont.)

2. Is the Office for Civil Rights in the Department actively monitoring support for school desegregation activities under Chapter 2?

ANSWER: The Office for Civil Rights (OCR) reviews Federal grants recipients' activities to determine whether they are complying with the terms of compliance agreements. In the past, OCR reviewed pre-grant applications for funding under the Emergency School Aid Act (ESAA) to determine whether each district had an eligible desegregation plan and met other civil rights compliance standards specified in the law. Since the ESAA program has been consolidated into Chapter 2, the review of the pre-grant awards is no longer necessary.

In addition, OCR will respond to any instances of alleged non-compliance with Federal non-discrimination statutes when these are brought to the attention of the Department.

3. Department officials have indicated that inclusions of the ESAA program funds into the block grant will allow states to be involved in long-range planning for school desegregation. What evidence is there that the states are involving themselves in planning and implementing desegregation activities?

ANSWER: Under the Education Consolidation and Improvement Act (ECIA), Chapter 2, both State and local educational agencies may spend their block grant funds for desegregation activities. The Act does not require States' Chapter 2 applications to include specific information on how funds will be spent at the local level. A broader description of plans for the States' use of their share of the Chapter 2 funds is included in each State application. Up to 20 percent of the State allocation may be used by the State education agency for purposes of administration, basic skills development, educational improvement and support, or special projects.

Consequently, we have no specific information on how States will be involved in long-range planning for school desegregation, unless States include this topic in their applications when describing their plans for using the State allocation. However, several States have included children undergoing desegregation as "high cost" children and have assigned such children in a greater weight in the State allocation formula which is used to distribute funds to school districts. This enables the districts with these children to receive extra block grant funds. To date, five State formulas have been approved which use desegregation activities as a high cost factor: Michigan, New York, New Jersey, Washington and Connecticut.

Committee on Labor and Human Resources

Emergency School Assistance Act (3. cont.)

We have planned a number of evaluations of the block grant program which are designed to give us information about the kinds of activities being supported with block grant funds at both the State and local levels. The Department will share those findings with Congress when the studies are completed.

Equal Educational Opportunity

Several members of the Committee are very concerned about the fate of the Women's Educational Equity Act, a small program that could be said to be the "carrot" to Title IX's "stick." It appears the Administration has not been supportive of the program and intends to phase it out. What is your understanding of the Department's intent toward WEEA? What future do you see for the program?

ANSWER: The President's budget for FY 1983 proposed termination of a number of categorical programs, including the Women's Educational Equity Act program (WEEA). These categorical programs promote special concerns and place administrative and paperwork burdens on States and local schools.

The WEEA has funded more than 400 grants totaling approximately $50 million since its inception in 1976. It has concentrated on funding the development of model programs and products that can be easily replicated and disseminated for use in various educational settings. There are currently available a multitude of training materials, educational approaches to sex equity, and community involvement models that can be used by State and local educational agencies wishing to develop or implement sex equity programs.

While the Department recognizes that barriers to achieving equal educational opportunities for women still remain, we believe the WEEA and other programs have produced sufficient materials and models so that future developmental and implementation activities can be left to the States. In addition, the broad authorities in the Chapter 2 block grant permit most activities to be continued or implemented in new districts, so Federal funding remains available at the discretion of States and local school districts. The Federal role will also remain in the areas of compliance with civil rights laws and in research and dissemination.

This Administration remains fully committed to the enforcement of all civil rights laws, including Title IX. The Department of Education's Office for Civil Rights funded two technical assistance contracts at the end of FY 1981 which, for the first time in any Administration, focused on Title IX issues. One of the contracts dealt with sexual harrassment in higher education and the other with discrimination in vocational education programs. We have found that working with States and educational institutions on a cooperative basis has resulted in establishment of better relations that focus on how to achieve compliance.

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Committee on Labor and Human Resources

Title I

In response to a question regarding reduction of Title I funds, you indicated that there are schools districts which operate effective Title I programs at a cost of $300 per child. Please advise us specifically which districts operate effective Title I programs at a cost of $300 per child, and provide us with a short summary of how those districts operate their Title I programs.

ANSWER: Listed below are several Title I projects for which there is compelling evidence of effectiveness as determined by the Department of Education's Joint Dissemination Review Panel. Such projects offer to school districts relatively low-cost alternatives for providing compensatory education services.

Wichita, Kansas

Project name: Corrective Reading Program
Cost per pupil: $436
Description:

- The project serves pupils with corrective reading problems in grades one through nine.
- The project has as its main goals to improve and upgrade word recognition and reading comprehension skills.
- The project has six phases: identification, screening, diagnosis, scheduling, instruction, and evaluation.

Albany, Georgia

Project name: Reading Individualized Remedial Laboraties
Cost per pupil: $380
Description:

- This project is designed to provide supplmentary instruction in basic reading skills to severely educationally disadvantaged students in grades one to twelve.
- Reading labs are developed and designed to provide continuous diagnosis of student needs and daily prescriptions for learning improvement.
- All of the project's reading labs are developed for high concentration in the improvement of basic reading skills.

Committee on Labor and Human Resources

Title I (cont.)

Newport Beach, California

Project name: Project Catch-up
Cost per pupil: $405
Description:

- o This project is designed to provide remedial instruction in reading and arithmetic to educationally disadvantaged children.
- o The project serves racially and ethnically heterogeneous children in preschool through grade eight.
- o The project's major emphasis is placed on diagnosis of learning problems through extensive use of criterion-referenced tests.

Winchester, Virginia

Project name: Compensatory Reading And Math Program (CRAM)
Cost per pupil: $342
Description:

- o This program is an individualized diagnostic-prescriptive program designed for grades one through four in reading and for grades three through four in math.
- o The program emphasizes reading word recognition and comprehension skills and basic mathematics computation skills.

Portland, Oregon

Project name: Upstairs School
Cost per pupil: $275 (NOTE: Project no longer in existence in Portland.)
Description:

- o Project improves reading, mathematics, and English ability of secondary school students.
- o Students are pulled out of regular classes and attend a highly structured "school within a school."
- o Student participants attend daily 50 minute classes in the area of their need.

Committee on Labor and Human Resources

Title I (cont.)

Ft. Dodge, Iowa

Project name: Title I Reading Project
Cost per pupil: $439
Description:

- o Project provides individualized instruction for disadvantaged students to enable them to become competent readers.
- o Language development and comprehension emphasized.
- o Project has been in existence since 1965.

Yeadon, Pennsylvania (William Penn School District)

Project name: Professional Reading Instruction with Desirable Effects (Project PRIDE)
Cost per pupil: $439
Description:

- o Project PRIDE is a pull-out remedial program.
- o Pupils diagnosed as having reading problems attend daily 25 minute reading sessions conducted by teachers who specialize in teaching reading.
- o Classes are small with five or fewer pupils per teacher.
- o Individualized instruction given for those pupils who have severe reading deficiencies.

Chester, Pennsylvania

Project name: Reading Achievement Program (RAP)
Cost per pupil: $353
Description:

- o Is a pull-out program that provides intensive remedial reading instruction to educationally disadvantaged children in grades two through five.
- o Emphasizes building vocabulary skills and increasing reading comprehension.
- o Conducts instructional sessions in small groups (one teacher to six pupils); each session meets daily and lasts 30 minutes.
- o Has been in operation since 1978.

Committee on Labor and Human Resources

Tuition Tax Credits

In the hearings, there was discussion of the revenue loss impact of the Administration's tuition tax credit proposal. Please provide for the Committee a detailed analysis, including estimated average level of credit and estimated number of private school children whose families would be eligible for the credit, of how you arrive at your cost estimates.

ANSWER: The U.S. Department of the Treasury estimated the potential revenue loss of the Administration's tuition tax credit proposal. Treasury Department estimates of the revenue loss are:

Fiscal Year (in billion $)				
1983	1984	1985	1986	1987
*	-0.4	-0.9	-1.3	-1.3

*Less than $50 million

These estimates depend upon the projected number of children attending private schools whose families would be eligible for the credit and the tuition they pay. The Treasury Department projected that private school enrollment, under current law, would be about 4.2 million for each of the years under consideration. Their projection is based on the Bureau of the Census's Current Population Survey-derived estimate of 4.2 million private elementary-secondary school pupils for 1981.

Because a tuition tax credit would reduce the effective price of private schooling, the Treasury Department also assumed that the enactment of the Administration's proposal would result in additional private school enrollment. The additional enrollment was estimated on the basis of price elasticities of private school enrollment found in a technical paper, "The Demand for Private Schooling," by Jay Noell, a U.S. Department of Education statistician, and David Myers, a consultant. In 1985, for example, the additional enrollment as a result of the enactment of tuition tax credits is estimated to be 0.3 million, bringing total enrollment up to 4.5 million.

However, not all pupils enrolled in private schools would be eligible for the credit because their family income will be too high or their family tax liability too low. In 1985, for example, an estimated 4.0 of the 4.5 million private school pupils would receive the credit. Of those receiving no credit, about three-quarters get no credit because their family income is too high.

Committee on Labor and Human Resources

Tuition Tax Credits (cont.)

In summary, the Treasury Department estimates of the numbers of private school pupils, the number receiving the credit, and the average level of the credit are:

	Calendar Year				
	1983	1984	1985	1986	1987
Private School Pupils (millions):					
Total	4.2	4.3	4.5	4.6	4.7
Receiving credit	3.7	3.8	4.0	4.0	4.0
Average credit ($)	89	215	321	332	326

Urban Education

1. Clear evidence is emerging that the states' block grant funding formulas are resulting in severe decreases in funding to the cities. How has the Department taken this into account when judging the merits of the state block grant formulas?

ANSWER: The decisions about how to spend Chapter 2 monies are primarily the responsibility of State governments. Such funds are to be "used in accordance with the educational needs and priorities of State and local educational agencies as determined by such agencies" (Section 561(a)).

> "...From the sum made available each year under section 563, the State educational agency shall distribute not less than 80 per centum to local educational agencies within such State according to the relative enrollments in public and nonpublic schools within the school districts of such agencies, adjusted, in accordance with criteria approved by the Secretary (emphasis added), to provide higher per pupil allocations to local educational agencies which have the greatest number or percentages of children whose education imposes a higher than average cost per child, such as--
> (1) children from low-income families,
> (2) children living in economically depressed urban and rural areas, and
> (3) children living in sparsely populated areas (Section 565(a))."

Committee on Labor and Human Resources

Urban Education (1. cont.)

> "The Secretary shall approve criteria suggested by the State educational agency ... if such criteria are reasonably calculated to produce an equitable distribution of funds with reference to the factors set forth in subsection (a) (Section 565(b))."

The law clearly states that educational needs and priorities are to be developed by the State, and the formula was reviewed within the State by a Governor-appointed advisory committee that included representation from a number of parties, including school administrators, local school boards, parents, and teachers. The Department has reviewed the formulas in terms of their basic compliance with the statute.

The total amount of funding will decrease under Chapter 2 as compared to the total of the antecedent 29 programs. Under the formula, grants will be made on the basis of enrollment, adjusted to provide additional funds to districts with "high cost" children. Consideration of the high cost factors typically included in the States' formulas indicates that many of these cost factors are associated with urban areas, and thus will result in cities receiving a larger share of Chapter 2 funds than districts without appreciable numbers of such high cost children.

For instance, measures of economic need are included in the formulas for the majority of States. These measures, which include the number of Title I-eligible students, students from families receiving AFDC, students receiving free or reduced-price lunches, district tax effort, state aid formulas, and numbers of students in districts with high socio-economic needs, will ensure that high poverty urban areas will receive their share of funds. Certain other indicators in State formulas, such as the number of students needing basic skills remediation, students affected by desegregation, racial isolation, and minority enrollment, also will serve in this manner.

All except three of the States' formulas use factors that tend to favor urban areas in some manner to determine allocation of funds. The three remaining States have large rural populations and use sparsity as a determining variable, as is allowed by law.

It should be noted that appropriations for the antecedent programs included in the block grant have been decreasing for a number of years. From 1979 to 1981, before the block grant was authorized, funding decreased by 37 percent. From 1981 to 1982, when the block grant was first funded, funds were reduced by only 12 percent. The program which provided the most aid to urban districts -- Emergency School Aid -- was decreased by 40 percent in one year alone, from 1980 to 1981. Thus States' implementation of the block grant should not be held solely responsible for reductions to urban areas.

Committee on Labor and Human Resources

Urban Education (cont.)

2. It is clear that the Administration's education budget cuts are falling heaviest on hard-pressed urban school districts. Urban schools are losing about $2.50 for every $1.00 of federal funds lost by non-urban districts.

What are the Department's priorities with regard to urban education?

How is the Department implementing those priorities?

ANSWER: I presume the figures in your statement, "urban schools are losing about $2.50 for every $1.00 of federal funds lost by non-urban districts" refers to the Chapter 2 program. Now that Chapter 2 is a block grant, under control of the States, all districts are allocated funds on the basis of enrollments and high cost factors as determined by each State. Prior to the block grant, smaller districts often were not interested in the programs because the requirements were too cumbersome. Their participation means that each State's share of the funds has to be spread out further, lessening the urban districts share.

With regard to Administration policies on urban education, these must be considered in the context of the Administration's general domestic program. School districts rely primarily on State and local tax revenues for financial support. Income, sales, and property tax bases -- the major sources of State and local support -- are promoted through a sound economy. The President's domestic program is designed to promote economic recovery through encouraging private investment and controlling spending. A strong economy would benefit urban school districts, as well as school districts throughout the nation.

The Department has proposed several changes to existing legislation to improve the targeting of Federal funds on the neediest school districts or students. The proposed vocational education legislation adds a new factor to the Federal allocation formula that gives extra weight to areas of high unemployment. The proposed Title VII legislation (bilingual education) would grant funding priority to students whose usual language is other than English. Urban districts will benefit from these changes to the extent they have greater unemployment rates or concentrations of eligible language minority students.

The Administration is awaiting Congressional action on its legislative proposals.

Committee on Labor and Human Resources
CHAPTER 2, BLOCK GRANT

State Administration

1. What information do you have on how the states intend to use the 20 percent of the block grant funds allotted to them? How much of their 20 percent share is planned to be used to replace funds lost under the prior program for strengthening state agency management?

   ANSWER: In their applications to the Department for their Chapter 2 grants, States are documenting what portions of their 20 percent allocations will be used for administration, for implementing participation of children attending private schools, for Subchapter A (Basic Skills Development), for Subchapter B (Educational Improvement and Support), and for Subchapter C (Special Projects) programs. In addition, States are providing some general information about the types of authorized programs and projects which are to be implemented.

   Programs for strengthening State agency management are authorized under Subchapter B, which includes "programs and projects to improve the planning, management and implementation of educational programs, including fiscal management, by both State and local educational agencies...(Section 577(5))."

   The information provided in the State applications pertaining to the allocations and expenditures of the States' portion of the block grant will be general in nature. The Department is presently compiling this information, and will be able with the next several months to present to the Committee a summary of this information. In addition, the Department has planned a number of evaluation studies designed to ascertain what kinds of services are being supported, at the State and local levels, with Chapter 2 funds. The results of these studies will, upon completion, be made available to the Congress.

2. What information can you provide us with respect to numbers of persons hired by State Departments of Education with funds under their 20 percent?

   ANSWER: In their applications to the Department for their Chapter 2 grants, States are documenting what portions of their 20 percent allocations will be used for administration, for implementing participation of children attending private schools, for Subchapter A (Basic Skills Development), for Subchapter B (Educational Improvement and Support), and for Subchapter C (Special Projects) programs. The Department is presently summarizing this information, and will be able to provide to the Committee additional information about the amount of Chapter 2 funds allocated for State administration.

Committee on Labor and Human Resources
CHAPTER 2, BLOCK GRANT

Private School Participation in the Block Grant

1. Could you explain in some detail how the Department's draft regulations will be implemented with respect to private school children's participation in the block grant?

   ANSWER: Chapter 2 makes extensive provision for the equitable participation of children enrolled in private schools. Sections 586(d) and (e) provide that the Secretary may arrange to provide services to private school children if an SEA or LEA is prohibited by law or "has substantially failed or is unwilling" to provide services on an equitable basis for them.

   Because Chapter 2 assigns to the Secretary a special duty regarding the equitable provision of Chapter 2 services to children enrolled in private schools, the Secretary has provided guidance in the final regulations regarding a number of questions which have been frequently raised and which knowledgeable persons, including representatives of private school children, believe require clarification. Clarification is needed to insure full compliance with the specific provisions which Congress has enacted to protect the rights of private school children to share in Chapter 2 services. Among the matters clarified in Subpart C of the final regulations are: responsibility of SEAs and LEAs to provide services; consultation with private school officials; determination of needs, number of children, and types of services; factors used in determining equitable participation; use of public school employees on other than public school premises; and public supervision and control of funds and equipment.

2. What is the responsibility of the public LEA in providing services to private school children?

   ANSWER: The final regulations state in §298.21 that an LEA shall provide children enrolled in private schools in that LEA with secular, neutral and non-ideological services, materials and equipment or other benefits as well as assure equitable (that is as compared to children enrolled in public schools) participation of such private school children in the purpose and benefits of Chapter 2 in accordance with Section 586 of the Act and other requirements included in Subpart C of the final regulations. Other sections of Subpart C include consultation with private school officials; determination of needs, number of children and types of services; factors used in determining equitable participation; funds not to benefit a private school's use of public school employees; equipment and supplies; and construction.

Committee on Labor and Human Resources

Title I

1. In the Department's Annual Evaluation Report for FY 1981, it is stated, "In general, Title I services are well targeted in terms of schools in poor areas and of low-income achieving youngsters, are supplemental to services provided by states and school districts, and are effective in helping many participating students to progress beyond what would be expected without the program.

Since the Department obviously feels that Title I is working, why has the Administration proposed such drastic reductions in this program?

ANSWER: The Administration's 1983 request of $1.7 billion for Chapter 1 grants to local school districts will enable the program to serve about 4.3 million children with an average Federal contribution to the per child cost of $400. Actual costs will vary among school districts according to the needs of the participants and the types of services offered. Despite the proposed budget reduction and the favorable evaluation results, I do not believe that the 1983 Chapter 1 budget request will necessarily result in a decrease in the quality of services or in the number of children served. State and local education agencies will seek more cost-effective ways of providing compensatory education services as a means of offsetting the reduced Federal contribution. The Department will continue to identify and disseminate such cost-effective projects, especially those that emphasize instruction in basic skills and have a low cost per child.

The Department has identified a number of exemplary Chapter 1 (Title I) projects that have a relatively low cost per child. These projects have been shown to work and are available for dissemination and use by other school systems.

After 15 years of operation, compensatory programs have moved beyond the stage of having to develop programs that work. I have every confidence that proven approaches for providing compensatory education services are available which school districts can implement at a much lower cost.

More generally, it should be remembered that the proposed budget reductions for Chapter 1 programs as well as for other education programs within the Department for fiscal year 1983 are part of the President's general policy of decreasing Federal expenditures. Reducing the Federal budget across the board is a vital element in the Administration's program to control inflation and to revive the Nation's economy. Moreover, in relative terms Chapter 1 remains one of the highest priorities with the Administration's fiscal 1983 budget, accounting for about 22 percent of Education's total request.

In making these difficult choices on where to cut the budget, we have attempted to spread the burden as fairly as possible among various beneficiaries of our programs, while still reflecting priority areas. I realize that these budget reductions cannot be achieved without pain, but it is necessary to press forward with our efforts in order to restore the economic health of our country.

Committee on Labor and Human Resources

Education Research

1. What is the status of the draft research plan circulated several months ago by the National Institute of Education?

   ANSWER: Secretary Bell is working closely with NIE officials to develop a research plan that is designed to build upon past work, especially in the areas of improving instruction in reading, writing, science and mathematics; and identifying and disseminating the characteristics of effective schools. The Secretary has made his priorities clear -- academic excellence heads the list, as you know.

2. How will future research plans for the Institute be developed?

   What do you understand the education research priorities of the Department to be? How do these plans relate to the priorities established by the Congress in the 1976 and in the 1980 amendments?

   ANSWER: In developing research plans for the Institute, NIE considers the views and recommendations of a variety of individuals and groups that have an interest in educational research. These include professional researchers and other members of the education community as well as Congressional, State, and local policymakers. NIE also receives guidance from the National Council on Educational Research. The Institute will be guided by the general policies established by the Council. The Director of the Institute also consults with the Secretary and the Assistant Secretary for Educational Research and Improvement.

   In developing the research plans for the Institute, we all have been mindful of the priorities established by Congress in the authorizing legislation. These Congressional priorities establish the framework in which the detailed plans of the Institute will be developed. Future plans will include a focus on research and development to improve the quality of education (especially in the areas of reading, writing, science and mathematics) and dissemination efforts to ensure the effective utilization of research findings for school improvement. These two priorities are in keeping with statutory priorities relating to improvement in student achievement, in basic educational skills and improvement of dissemination of results and knowledge gained from educational research and development.

Committee on Labor and Human Resources

Education Research (cont.)

3. There has been recent criticism that a number of peer reviewers selected by the Administration to review a variety of research proposals had no background or experience in the subject matter under review. What do you propose to do to insure that those selected to make decisions on awarding federal funds have the necessary expertise?

ANSWER: The qualifications needed by a peer reviewer have traditionally been determined by the program officials. Before any solicitation for new peer reviewers was made during FY 82, each program office was requested to submit the criteria which they have traditionally used to select reviewers. These established criteria were used as the guide by Department senior officials and the regional officers, to solicit qualified reviewers from State education agencies, colleges, universities, local school districts, and research organizations. The experience and qualifications of individuals who responded were matched with these criteria for each program area. Referrals were made to program offices and those offices made the final selections as to which individuals best met their respective program needs.

Our objective has been to assist with the fair and equitable review of all proposals by helping to make available new and qualified readers from all segments of the country. The Department of Education will continue to use as its basis for the selection of peer reviewers the criteria established by the program offices to help insure that those selected to review discretionary grant proposals meet the established program's needs.

4. The Administration dismissed all of the members of the National Council on Education Research. None of the ten candidates proposed by the Administration are practicing educational researchers. What assurance can you give the Committee that the remaining vacancies on the Council will be filled by more qualified candidates?

ANSWER: The ten nominees proposed by the Administration to serve on the National Council on Educational Research were selected for their professional qualifications in various areas of education. Some of the nominees have in the past and some are currently performing educational research. The nominees represent a cross-section of talent that is vital to the success of the Council. The selection of candidates to fill the remaining vacancies will also be based on their professional qualifications. The contributions they can make to the present Council will be carefully considered.

Committee on Labor and Human Resources

Vocational Education

1. By all reports, there is a great mismatch between the skills needed in American business and industry and skill available in the American workforce. In other words, there is a need for skill training for youth and adults in the American workforce. How can this problem be addressed by the U.S. Department of Education?

   ANSWER: The problem of a mismatch between skills needed and skills available is of concern to us at the Federal level as well as to States and localities. Since the States and localities spend ten or eleven of their own dollars for every one Federal dollar on vocational education, pervasive change such as the kind you are suggesting must come primarily from the State and local levels.

   The Administration's proposed legislation seeks to address these concerns through a partnership arrangement with States and localities to solve some of these job-skill mismatch problems. A focal point of this proposed legislation is its emphasis on training to sustain or improve productivity and economic growth. No less than 30 percent of a State's funds are to be used to assist States to provide vocational education programs, projects, services and activities that foster State and local economic development by training persons in the occupational skills needed by business and industry.

2. We are all very much aware of the changes in technology, the need for improved scientific and technical literacy in our education systems and the need to focus upon the changes in our nation's education systems. What can be done in the form of national leadership to improve the nation's programs of vocational education so they can address the changing needs of the workplace?

   ANSWER: The changes in technology and the need for improved scientific and technical literacy to which you refer in your question have implications for the vocational education programs as well as for other programs in the Department. The Department's "technology initiative" represents our attempt to exercise leadership in this broad area. Under this initiative we are determining how technology can be used to improve teaching and learning in schools.

Committee on Labor and Human Resources

Vocational Education (2. cont.)

With respect to exercising national leadership in the programs of vocational education specifically, so that they can address the changing needs of the workplace, the Administration's legislation encourages training for productivity and economic growth.

Furthermore, the Office of Vocational and Adult Education (OVAE) recognizes the problem and gives national leadership through the projects they support. For example, one project is pin-pointing the ways in which technological advances are changing occupations. This information will be disseminated with programmatic implications highlighted. In addition, OVAE is funding the development of programs in certain of the very new high technology fields such as robotics maintenance, nuclear technology, and electro-optics/lasers. Further, OVAE has established a Committee on high technology to coordinate and give leadership in this area.

3. If the Federal role in vocational education is eliminated, what would this Administration do to provide leadership for involving education in the economic growth and development and the economic revitalization of communities and states?

ANSWER: The responsibility for involving education in the economic growth and development and the economic revitalization of communities and States rests primarily with the communities and States. The Federal Government's role would be to assist through the leadership it can exert.

We have proposed that the vocational education program, along with approximately 38 others, be turned back to the States beginning in 1985. The States would then have discretion to use the funds as they see fit. When all States have taken on the responsibilities and funding for these "turnback" programs, after 1987, the Federal Government would continue to exercise leadership and encourage improvements primarily through research, dissemination and development efforts.

4. Is it your view that State and local officials have the primary responsibility for education decision-making in this country and ought to be given considerable discretion in operating federally funded programs?

ANSWER: Yes, to extent permitted by law. However, we must limit that discretion if Congress has enacted laws to the contrary. That is why we favor block grants.

Committee on Labor and Human Resources

Vocational Education (cont.)

5. In that regard, let me ask you to briefly on a couple of statements which the U.S. Department of Education made in the Federal Register on February 12 of this year:

> First of all, the preamble to the proposed regulations for Chapter 1 of the ECIA stated that "to the extent feasible, the Secretary will give deference to an SEA's interpretation of a Chapter 1 requirement if that interpretation is not inconsistent with the Chapter 1 statute, legislative history, and regulations."

Do you agree with the sentiments expressed in that statement?

> Secondly, section 298.14 of the proposed regulations for Chapter 2 of the ECIA reads as follows:
> "§298.14 Availability of funds.
> (a) An SEA or LEA may obligate funds during the fiscal year for which the funds were appropriated and during the succeeding fiscal year.
> (b) The time at which funds are considered to be obligated is determined according to standards commonly used in the State in which the SEA or LEA is located."

Do you feel that it is appropriate to use State standards to determine when funds are considered to be obligated?

ANSWER: First, I do agree with the sentiments expressed in the preamble. One complex Federal statute such as vocational education law or P.L. 94-142 makes it impossible to adjust to the needs of 50 States with laws written by 50 legislatures. That is why the block grant is a good concept.

To the extent consistent with underlying Federal law, I believe it is appropriate to employ State standards to determine when Federal funds are obligated. One of the purposes of the ECIA, of course, is to enhance the ability of States and LEAs to address their educational needs and priorities through the elimination of unnecessary and unproductive Federal requirements. This statutory theme of increasing State and local discretion makes it particularly appropriate that the ECIA regulations refer to State standards for determining what programmatic or administrative transactions constitute obligation of funds. The final ECIA regulations clarify, however, that this flexibility does not eliminate the need for the States and locals to obligate ECIA funds on a timely basis, or return them to the Federal Treasury.

Committee on Labor and Human Resources

Vocational Education (cont.)

6. The citation of authority that is given for section 298.14 of the proposed Chapter 2 regulations is section 412(b) of GEPA, which is commonly referred to as the Tydings Amendment. Are you familiar with the Tydings Amendment?

In the event you are not, the Tydings Amendment was enacted in 1970 to allow State and local officials ample time in which to plan for and carry out the effective expenditure of federal funds. The Tydings Amendment accomplished this be extending the permissible time for those agencies to expend federal funds. In summary, it permitted obligation of those funds in the fiscal year in which they were appropriated or in the succeeding fiscal year.

Are you aware that your Department's Audit Agency has made huge audit findings against a number of States based upon a retroactive construction of the Tydings Amendment which is totally inconsistent with the interpretations and instructions of the Federal program officials?

ANSWER: I am familiar with the Tydings Amendment and I am aware that audit findings relating to the Tydings Amendment are being discussed by the Office of Vocational and Adult Education, the Office of General Counsel, the Office of Inspector General, and other offices in the Department.

7. We would like to give you a brief description of the VEA funding process used in a number of States and then ask you a couple of questions with respect to the application of the Tydings Amendment.

The local educational agency (LEA) submits a local application to the State requesting $50,000 in VEA funds for a project in FY 80. The LEA obligates $40,000 in FY 80 and carries $10,000 over in FY 81, in accord with the Tydings Amendment. In FY 81, the LEA receives another $50,000 VEA grant which is deposited with the $10,000 carried over, for a total of $60,000. The LEA obligates $50,000 in FY 81 and carries over $10,000 in FY 82.

Now, according to the Inspector General, if the LEA failed to specifically identify each dollar amount expended in FY 81 to determine whether it was an FY 80 dollar or an FY 81 dollar, the LEA might be compelled to return the $10,000 carried forward from FY 80 to FY 81. In other words, even though the LEA spent an amount in FY 81 which exceeded the amount carried forward from FY 80, the LEA and SEA would be required to return the funds if the specific FY 80 funds are not obligated first.

Do you think this interpretation places the Federal Government in a supervisory role over the manner of handling of these funds?

Committee on Labor and Human Resources

Vocational Education (7. cont.)

Doesn't such a role considerably exceed the limited Federal responsibility permitted by a State administered program such as the vocational education program?

Don't you agree that requiring the LEA to handle funds in such a manner (the funds appropriated for each fiscal year are separately identified) is unduly burdensome?

ANSWER: I am aware that the Office of Inspector General has made recommendations concerning the obligation of funds. These are complicated legal issues and the recommendations, which are advisory in nature and are not binding on the Secretary of Education, are currently receiving a thorough review in the Department. After review, decisions will be made on action to be taken.

The auditors' view, as I understand it, is that the interpretation of the application of the Tydings Amendment which requires that the funds appropriated for each fiscal year be separately identified is consistent with requirements in 34 CFR 74, Subpart H. These prescribe that both grantees and subgrantees are to maintain accounting records which identify adequately the source and application of funds for grant or subgrant-supported activities. It is also consistent with special instructions regarding extended availability of fiscal year 1970 funds issued on June 18, 1970 by Grant Venn, Associate Commissioner for Adult, Vocational and Technical Education, which specifically stated that separate accounts be maintained for fiscal year 1970 funds carried forward to fiscal year 1971, and for fiscal year 1971 funds.

8. Are you aware that the Office of Vocational and Adult Education within your Department does not agree with the Inspector General's position with respect to the application of the Tydings' Amendment to the VEA funding process?

ANSWER: I am aware that there are discussions ongoing concerning the Inspector General's audit report findings.

9. Do you feel that it is fair and reasonable to demand that a State return funds to your Department in a situation where no one -- including the auditors -- is saying that the funds were misused, fraudulently wasted, or spent in violation of the program statute or regulations?

ANSWER: The Department has not yet made a final determination on action to be taken on the audit findings pending review of all the circumstances and issues. All laws, both general and program related, applicable to the activities under the program must be considered and complied with.

Committee on Labor and Human Resources

Vocational Education

10. Don't you think, Mr. Jones, that, if the U.S. Department of Education is going to adopt the auditors' overly rigid view of the Tydings' Amendment instead of continuing to hold the views which the program officials have expressed over the years, this type of drastic change in policy ought to only be applied in the future, rather than retroactively?

ANSWER: The issues are still being reviewed, however, we must assure that applicable laws have been complied with.

Transfer of Overseas Dependents' Schools (DODDS)

1. The transfer plan identified several problems concerning the Department of Defense's administration of the following programs and services: (1) Educational Media, (2) Inservice Education, (3) Compensatory Education, (4) Education for Individuals of Limited English Speaking Ability, and (7) Vocational/Career Education.

What has the Department done to strengthen these programs and to effectively deliver these services?

The transfer plan also identified two major weaknesses in the present five year curriculum review process:

(1) local schools as a group do not participate sufficiently in the process; and
(2) curriculum review decisions are not necessarily given the budgetary and logistical support required to ensure their implementation.

What has the Department done to correct these weakness?

ANSWER: Currently the Department of Education has no operational jurisdiction over the Overseas Dependent Schools. Under provisions contained in the Department of Education Organization Act actual transfer of the Overseas Dependent Schools from the Department of Defense would take place in May, 1983.

The Reagan Administration has proposed legislation which would repeal the transfer provisions and thereby continue to have the Department of Defense administer the Overseas Dependent Schools. To date the Senate has concurred with President Reagan's proposal. The House of Representatives is still considering the request.

Committee on Labor and Human Resources

Bilingual Education

1. What was your role in the development of language discrimination policy?

ANSWER: In February 1981, prior to my appointment at the Education Department, the Secretary of Education withdrew the proposed rule for Title VI of the Civil Rights Act for national origin minority children. Since that time the Department has begun to review alternatives to the proposed rule. I have been involved in the Department's deliberations to develop a policy that ensures the rights of language minority children while increasing the flexibility of school districts in deciding how best to serve them. These deliberations resulted in the recently submitted legislative amendments for Title VII.

2. Does this differ from the role of OCR's Policy Development Branch for Elementary and Secondary Education. And if so, how?

ANSWER: Within the parameters set by the Secretary, the Office for Civil Rights has major responsibility to propose modifications to the Department's policy for language minority students. Other offices within the Department respond to OCR proposals, as well as suggest alternative approaches.

As Deputy Under Secretary for Planning, Budget and Evaluation, I have participated in this process along with other offices in the Department.

3. Under your direction, two staff members of OPBE did a review of the literature on the effectiveness of bilingual education. It has come to our attention that the final product is undergoing editing.

-- When will a copy be available to this Committee?

ANSWER: In response to a Freedom of Information request from the Attorney General of Texas, a draft of the report which was initiated by the Carter Administration was released to the public in September 1981. Copies have been provided to Members of Congress from that date, upon request.

-- What sources will be publishing the review?

ANSWER: At the time Texas filed a Freedom of Information request, the review of the literature was incomplete. In keeping with the Freedom of Information Act, we have been providing copies of a draft of the report to the public upon request. When the report is in final form, it will be available to the public along with comments on the report from other offices within the Department. We understand that the report is also to be published by a commercial publisher.

Committee on Labor and Human Resources

Bilingual Education (3. cont.)

-- What role will this review have in the development of federal policy?

ANSWER: The review is one of many sources of information that have and will continue to contribute to the Department's development of Federal policy regarding bilingual education. There has been considerable research activity in the bilingual field--the review covers more than 300 studies. There are far too many individual studies available for policy makers to personally be aware of them all. Therefore, reviews summarizing the trends of the studies are an important part of any rational decision making process.

4. When the Secretary withdrew the proposed Lau regulations, he stated that his action should not be interpreted as a retrenchment from enforcement of the rights of language minority children. The Secretary recently announced that the Lau remedies would no longer be used as guidelines either.

-- What guidelines is OCR using to determine compliance with Title VI?

-- How many language discrimination complaints have been filed with OCR since November 1980?

-- As a result of these complaints, how many investigations have been initiated?

-- How many letters of noncompliance have been issued?

-- How many voluntary compliances have been agreed upon?

-- How many cases have successfully negotiated and closed within the last two years?

ANSWER: Since withdrawing the Lau remedies as the guidance for determining compliance with Title VI of the Civil Rights Act, the Secretary has reviewed compliance on a case by case basis. The Department is currently reviewing and analyzing a variety of new guidelines and criteria to be used in compliance with Title VI.

The data which have been requested are currently being collected from all 10 regional offices and will be available in late August. At that time I will forward the information you have requested.

Committee on Labor and Human Resources

Bilingual Education

5. Regarding new Lau regulations:

-- Which office is responsible for the development of new language discrimination guidelines?

-- What options are being considered by the Department?

-- When can this committee expect a Notice of Proposed Rule Making?

ANSWER:

--The Office for Civil Rights is responsible for the initial development of new guidelines for compliance with Title VI of the Civil Rights Act. Other offices, such as the Office of General Counsel and the Office of Planning, Budget and Evaluation and the Office of Bilingual and Minority Language Affairs will be involved in the development of new guidelines.

--The Department is considering a range of options meeting their responsibilities to language minority children under Title VI. All the options under consideration would allow districts greater flexibility to develop strategies tailored to meet the unique educational needs of their language minority students. These options would not require the use of any one instructional approach.

--Proposals for new regulations are currently under review in the Department. I recognize the need to provide guidance to school districts on this matter; the Department will do so as soon as possible.

Intergovernmental Advisory Council on Education

According to the Department of Education Organization Act, Public Law 96-88, the Intergovernmental Advisory Council on Education is required to:

"(a) provide a forum for representatives of Federal, State, and local governments and public and private educational entities to discuss educational issues;

(b) make recommendations for the improvement of the administration and operation of Federal education and education related programs;

(c) promote better intergovernmental relations; and

(d) submit biennially or more frequently (if determined necessary by the Council), a report to the Secretary, the President, and

Committee on Labor and Human Resources

Intergovernmental Advisory Council on Education (cont.)

> the Congress: (1) reviewing the impact of Federal education activities upon State and local governments and public and private educational institutions, including an assessment of ...any change in the Federal role in education, and (2) assessing both the extent to which Federal objectives are achieved and any adverse consequences of Federal actions."

The law also requires the membership to be composed of (1) six elected State and local officials with general government responsibilities (2) five representatives of public and private elementary and secondary education from among board members, chief education officials, administrators and teachers, (3) five representatives of public and private postsecondary education from among board members, chief education officials, administrators, and professors, and (4) four from members of the public including parents of students and students.

Finally, (1) the Under Secretary of Education serves as an ex officio member of the Council and (2) the members on the Council serve staggered terms into four groups of five members each for initial terms of one, two, three, and four years.

Based upon this Congressional mandate:

1. What was the statutory authority for the termination of all the members on the previous Council? (*See Question 6)

   ANSWER: There is no statutory authority that prohibits termination of members of the Council. An opinion from Education's Office of General Counsel indicates that the President retains the ability to "remove and replace any or all committee members over whom he has appointment authority." (See Attached Opinion.)

   Also, Item III on page 3 of the Counsel's opinion says that advisory committee members provide advice and recommendations to the President. And further, "They [the Council members] may be removed when the confidential relationship necessary for providing such advice is no longer present."

2. What role, if any, did you serve in the termination?

   ANSWER: As Under Secretary-designate, I had no role in the termination of the previous Council members.

U.S. DEPARTMENT OF EDUCATION
WASHINGTON, D.C. 20202

February 24, 1981

OFFICE OF THE
GENERAL COUNSEL

MEMORANDUM

TO : John Seal

FROM : Roxanne Ando
Division of Legal Counsel

SUBJECT: Appointment of Advisory Committee Members

You have asked a number of questions concerning the validity of appointments of members to Federal advisory committees made by the outgoing administration before January 20, 1981. This memorandum examines the validity of such appointments made by the President and by the Secretary, the effect of the hiring freeze on appointments to advisory committees, and the authority to remove and replace committee members.

The appointment of advisory committee members, as well as their duties and rights, are governed by the enabling legislation creating each committee and, depending on the committee, by the Federal Advisory Committee Act and Part D of the General Education Provisions Act which set forth standards on the formation and operation of advisory committees. While some statutes require that members be appointed by the President and others by the Secretary, in this Department both kinds of members have been considered "intermittent employees" and are considered "special government employees" for a number of purposes including of the Department's Standards of Conduct.

Appointments Made by the Outgoing Administration

The appointees designated by the outgoing administration fall into the following categories:

(1) Those who have been designated by the President and have actually performed duties;

(2) Those who have been designated by the President but have not performed duties;

(3) Those who have been designated by the Secretary who have actually performed duties; and

(4) Those who have been designated by the Secretary who have not performed duties.

In brief, those individuals designated by the President before January 20, 1981 have a valid appointment regardless of whether they have performed services yet or whether administrative measures, such as processing the Form SF-50 or administering an oath of office, have been taken to allow them to be compensated. With respect to those persons designated by the Secretary, if the individual has actually performed duties a legally effective appointment has been made. For those Secretarial designees who have not yet performed duties, a legally effective appointment is made when the Form SF-50 is duly executed.

A. Presidential Appointees

Enabling legislation authorize two kinds of Presidential appointments to advisory committees: those appointed "with the advice and consent of the Senate" and those appointed by the President alone. For the first type of Presidential appointment, the Senate must consent for appointments to become effective. Where Senate confirmation of Presidential appointees is not required, the appointment is valid when the President designates the individual a committee member. In making the appointment, the White House issues a press release announcing the appointment and the President signs a commission to be countersigned by the Secretary of State and given to the appointee. We believe that no further action is required to validate the appointment. The fact that this Department uses its personnel office to process papers so that the member may be compensated is immaterial to the validity of the Presidential appointment. Thus, Presidential appointees designated by President Carter before January 20, are validly appointed.

It should be noted that the validity of those Presidential appointments does not affect the authority of the new President to remove and replace any or all committee members over whom he has appointment authority. However, until the President takes such action, the members have valid appointments and should be compensated for the work they perform. At this time the necessary paperwork should be processed for all Presidential appointees.

B. Secretarial Appointees

Where the Secretary is authorized to appoint advisory committee members and the designee has actually served, the appointment is valid. The necessary paperwork should be processed so that these individuals may be compensated.

Because USED considers committee members to be personnel of the Department, that is, "special employees," if the prior Secretary designated a person but the party has never actually performed duties, then according to the Office of Personnel Management (OPM), no legally effective personnel appointment has been made. According to OPM no appointment is effective until an SF-50 has been duly executed. OPM's rationale is that the SF-50 is necessary to officially accomplish the appointment.

Since an SF-50 has not been executed for many individuals designated by the outgoing Secretary, OPM maintains that an appointment has not yet been made. Furthermore, as explained below, it appears that even if the Secretary chose to honor the designations made by his predecessor, the hiring freeze prevents the Department from going forward with making these appointments at this time.

II. Effect of the Hiring Freeze

The Office of Management and Budget considers any appointment by the Department counted as an "accession" on Form 113 to be covered by the hiring freeze. It thereby concludes that the freeze covers advisory committee members whom the Secretary is authorized to appoint. Those Secretarial designees who do not have a legally effective appointment, or a de facto appointment because of actual performance of duties, may not be appointed until the freeze is lifted or modified. According to OMB the freeze further prevents the Secretary from making new appointments to fill vacancies or to replace members whom he removes. This information was obtained from George Strauss in OMB.

III. Removal and Replacement of Committee Members

Unless Congress otherwise specifies the grounds for removing advisory committee members appointed by the executive branch, the appointing authority has the discretion to remove a member. Advisory committee members provide advice and recommendations to the President and/or the agency head involving programs and matters within the responsibility of the Department. They may be removed when the confidential relationship necessary for providing such advice is no longer present. They do not have quasi-judicial or quasi-legislative functions. Thus, legal precedent indicates that the nature of their positions is such that the appointing authority may remove them at any time. In addition, we believe that the statutory provisions specifying the length of a term do not give the members rights to continued employment, but instead designate the maximum length of service before reappointment or a new appointment must be made.

cc: Ted Sky
Mary Jean LeTendre
Ann Bailey
Marsha Scialdo

Committee on Labor and Human Resources

Intergovernmental Advisory Council on Education

3. Specifically, how does each individual on the Council fit the categories of membership?

ANSWER: The Council membership is determined by the President, based upon information held by the appropriate office at the White House. Attached is a memorandum from the Office of Presidential Personnel indicating the new members and the categories into which they fit, such categories having been designated by Section 213(c)(1) of P.L. 96-88.

4. As Under Secretary of Education, you would serve as an ex officio member of the Council. How much personal involvement do you feel would be necessary to perform this function?

ANSWER: While the Under Secretary does maintain ex officio membership on the Council, the precedent has been that the Under Secretary's role has been delegated to the Deputy Under Secretary for Intergovernmental and Interagency Affairs. The Under Secretary's involvement in Council activities will be through guidance and direction to the Deputy Under Secretary.

5. What do you feel is the primary responsibility of the Council?

ANSWER: The Council has been established to "provide assistance and make recommendations to the Secretary and the President concerning intergovernmental policies and relations relating to education." In carrying out its functions, the Council shall, "(A) provide a forum for representatives of Federal, State, and local governments and public and private educational entities to discuss educational issues;" and "(B) make recommendations for the improvement of the administration and operation of Federal education and education related programs." (Section 213 of P.L. 96-88 - See attached)

6. *Was the reason related to educational philosophy?

ANSWER: The Administration expects individuals who hold Presidential appointments to enjoy the confidence of the President. The new appointments were made to establish such confidence in the Intergovernmental Advisory Council.

THE WHITE HOUSE

WASHINGTON

July 23, 1982

Intergovernmental Advisory Council

on Education

The Committee is composed of twenty members.

1) Six elected State and local officials with general government responsibilities;

a) Senator Joseph Harder
b) Rep. Alan L. Cropsey
c) Senator Vance R. Kelly
d) Rep. Dalton Sheppard, Jr.
e) Harriet Wieder
Note f) Vacant

2) Five representatives of public and private elementary and secondary education, from among board members, chief education officials, administrators, and teachers;

a) Emlyn I. Griffith
b) Jacqueline McGregor
c) Betty R. Sepulveda
d) George N. Smith, Ed. D.
e) Gonzalo A. Velez

3) Five representatives of public and private postsecondary education, from among board members, chief education officials, administrators, and teachers;

a) Esther Rushford Greene
b) Norman A. Murdock
c) Ralph J. Perk
d) Joseph L. Knutson
e) William S. Banowsky, Ph.D.

4) Four members of the public including parents of students and students

a) Marilyn Joyce Anderson van Schaack
b) Manual J. Justiz, Ph.D.
c) Roberta T. Anderson
d) James B. Tatum

Secretary for Educational Research and Improvement appointed under section 202(b). The Assistant Secretary shall administer such functions concerning research, development, demonstration, dissemination, evaluation, and assessment activities as the Secretary shall delegate.

OFFICE OF BILINGUAL EDUCATION AND MINORITY LANGUAGES AFFAIRS

SEC. 210. There shall be in the Department an Office of Bilingual Education and Minority Languages Affairs, to be administered by a Director of Bilingual Education and Minority Languages Affairs, who shall be appointed by the Secretary. The Director shall coordinate the administration of bilingual education programs by the Department and shall consult with the Secretary concerning policy decisions affecting bilingual education and minority languages affairs. The Director shall report directly to the Secretary, and shall perform such additional functions as the Secretary may prescribe. 20 USC 3420.

OFFICE OF GENERAL COUNSEL

SEC. 211. There shall be in the Department an Office of General Counsel, to be administered by the General Counsel appointed under section 202(b). The General Counsel shall provide legal assistance to the Secretary concerning the programs and policies of the Department. 20 USC 3421.

OFFICE OF INSPECTOR GENERAL

SEC. 212. There shall be in the Department an Office of Inspector General, established in accordance with the Inspector General Act of 1978 (as amended by section 508(n) of this Act). 20 USC 3422.

92 Stat. 1101.
5 USC app.
Post, p. 692.

INTERGOVERNMENTAL ADVISORY COUNCIL ON EDUCATION

SEC. 213. (a) There shall be in the Department an advisory committee to be known as the Intergovernmental Advisory Council on Education (hereafter referred in this section as the "Council"). The Council shall provide assistance and make recommendations to the Secretary and the President concerning intergovernmental policies and relations relating to education. 20 USC 3423.

(b)(1) In carrying out its functions under subsection (a), the Council shall— Functions.

(A) provide a forum for representatives of Federal, State, and local governments and public and private educational entities to discuss educational issues;

(B) make recommendations for the improvement of the administration and operation of Federal education and education related programs;

(C) promote better intergovernmental relations;

(D) submit, biennially or more frequently (if determined necessary by the Council), a report to the Secretary, the President, and the Congress (i) reviewing the impact of Federal education activities upon State and local governments and public and private educational institutions, including an assessment of compliance with section 103 of this Act and of any change in the Federal role in education, and (ii) assessing both the extent to which Federal objectives are achieved and any adverse consequences of Federal actions. Report to Secretary, President, and Congress.

(2) In carrying out its functions under subsection (a), the Council may review existing and proposed rules or regulations of the Department concerning Federal education programs in order to determine Regulations review.

the impact or potential impact of such rules or regulations on State and local governments and public and private educational institutions. The Council may submit to the Secretary a report containing the results of its review of any existing or proposed rule or regulation. If a report by the Council concerns a proposed rule or regulation, it shall be submitted to the Secretary within the time established for public comment on the proposed rule or regulation, and shall be placed in the file of the proceeding concerning the proposed rule or regulation.

Report.

Members.

(c)(1) The Council shall be composed of twenty members, appointed by the President as follows:

(A) six elected State and local officials with general government responsibilities;

(B) five representatives of public and private elementary and secondary education, from among board members, chief education officials, administrators, and teachers;

(C) five representatives of public and private postsecondary education, from among board members, chief education officials, administrators, and professors; and

(D) four members of the public, including parents of students and students.

(2) In making appointments under this subsection, the President shall—

(A) consult with representatives of the groups specified in subparagraphs (A) through (D) of paragraph (1); and

(B) select individuals who represent a diversity of geographic areas and demographic characteristics.

(3) The Under Secretary shall be an ex officio member of the Council.

Terms of office.

(4) The term of office of a member of the Council shall be four years, except that—

(A) no member serving pursuant to paragraph (1)(A) of this subsection may serve on the Council beyond the period that such member holds an office qualifying such member for appointment under such paragraph; and

(B) the President shall divide the initial appointments to the Council into four groups of five members each for initial terms of one, two, three, and four years.

(5) The President shall designate one member to chair the Council.

(6) Any vacancy in the Council shall not affect its authority.

(d) The Council shall nominate and the Secretary shall appoint an executive director for the Council. The Secretary shall provide the Council with such other staff, facilities, services, and support as may be necessary to enable the Council to carry out its duties under this section.

FEDERAL INTERAGENCY COMMITTEE ON EDUCATION

20 USC 3424.

SEC. 214. (a) There is established a Federal Interagency Committee on Education (hereafter referred to in this section as the "Committee"). The Committee shall assist the Secretary in providing a mechanism to assure that the procedures and actions of the Department and other Federal departments and agencies are fully coordinated.

(b) The Committee shall study and make recommendations for assuring effective coordination of Federal programs, policies, and administrative practices affecting education, including—

Committee on Labor and Human Resources

Intergovernmental Advisory Council on Education (cont.)

7. Do you feel that the composition of the Council should be partisan or bipartisan and why?

ANSWER: According to statute, the Council must represent a "diversity of geographic areas and demographic characteristics." Once these factors have been considered, the primary concern is not the Council's partisanship or bipartisanship. Rather, the concern is the working relationship of the Council with the Administration.

8. Do you see the role of the Council as being independent of the abolition of the Department?

ANSWER: The function of the Council is strictly advisory and should not be confused with policy deliberations connected with the present or future status of the Department.

9. The Council's biennial report to the Secretary, the President, and the Congress should be submitted September 1982. Will the Council meet this deadline?

ANSWER: The previous Council did not complete its report and the President's new Council cannot speak for the previous one. However, the present Council will initiate its own report. Our General Counsel is preparing an opinion as to whether the present Council is obliged to meet a report deadline of September 1982.

Christian Schools

A number of the Department officials are liaison with Christian schools. How can you justify this use of federal funds?

ANSWER: The responsibilities of the Office of Private Education include liaison with all of American private education. Christian schools comprise only one component of this sector of American education. The Office of Private Education is essentially the only voice for private schools at the Federal level. It has responsibility for representing the needs of private school students and the concerns of private school officials as well as for explaining Administration policies in these areas to educators.

The predecessor of this Office was created by Congress in the Education Amendments of 1978 (P.L. 95-561, section 1241), to "maximize potential participation of nonpublic school students in all Federal educational programs for which such children are eligible." Its responsibility was expanded by Secretary Bell under the authority granted by the Department of Education Organization Act (P.L. 96-88).

Committee on Labor and Human Resources

Tax Exempt Schools

What is the Department's position on tax exempt schools?

ANSWER: The Administration and the Department strongly oppose granting tax-exempt status under Section 501(c)(3) to schools that discriminate on the basic of race, color, or national origin. Litigation now before the Supreme Court will determine whether continued IRS enforcement of this nondiscrimination policy will require explicit legislation. If legislation is found to be necessary, the Administration has made it clear that it favors a statutory solution.

With respect to the Administration's tuition tax credit proposal, to prohibit credits for taxpayers' payment of tuition in schools that follow racially discriminatory policies, triple anti-discrimination enforcement mechanisms have been written into the bill. First, tax credits cannot be claimed unless the school is a tax-exempt organization under Section 501 (c)(3). Second, no credit can be taken unless the school files a statement every year attesting that it has not followed a racially discriminatory policy. The statement must be under oath and is subject to the penalties for perjury. And third, if a person is discriminated against under a school's racially discriminatory policy and complains to the Attorney General, the Attorney General is authorized to file an action on behalf of the United States against the school.

General

1. A number of individuals appointed by the Department to reading review panels are associated with Bob Jones University. Do you see any real potential conflicts in view of the University's policy on racial discrimination?

ANSWER: The Department has a "Field Reader Outreach Program" to expand the pool of people outside the Federal Government to review and rate the quality of proposals competing for grants and contracts. This effort is designed to remove conflict of interest and other alleged abuses from the Department's grants and contracts process.

Field readers with expertise in various areas of education were sought out through contacts with officials in schools, colleges and universities, State Education Agencies, and research institutions, by Administration representatives in the Department's ten regional offices and the Office of Intergovernmental Affairs. This process has enabled us to identify new field readers with professional qualifications in various areas of education to assist the Department in awarding grants and contracts.

Committee on Labor and Human Resources

General (cont.)

2. What is the status of the National Advisory Committee on Black Higher Education and Black Colleges and Universities?

ANSWER: The charter for the "National Advisory Committee on Blacks in Higher Education" expired on June 30, 1982. Its staff is preparing a final report for the "National Committee". However, consistent with many of the concerns of the National Committee, the White House Initiative on Historically Black Colleges and Universities Staff continues to operate in the Department of Education.

3. During your tenure with the Office of Planning, Budget and Evaluation, what was your role as a major policy advisor?

ANSWER: As Deputy Under Secretary for Planning, Budget and Evaluation, I was responsible for several staff functions that help the Secretary and other senior officers of the Department develop, monitor and carry out policies.

The best known of these functions was budget formulation for more than 120 Department programs. My duties also included responsibility for developing proposed legislation; review of regulations, administrative orders and public announcements; and analysis of program plans and budgets. Additionally, I had responsibility for compiling the results of research and evaluation activities of principal offices of the Department and preparation of the "Annual Evaluation Report" and other Congressionally mandated studies.

4. As Under Secretary, what responsibilities will the Secretary delegate to you and what will the functional relationship of your office be to the Secretary in terms of decision-making authority?

ANSWER: By statute, the Under Secretary is responsible for relations between the Department, State and local governments and other Federal agencies. As Under Secretary, I will be responsible as well for the internal management and daily operations of the Department and will serve as principal policy adviser to the Secretary on all major program and management issues.

98-519 O—82——8

Senator Lowell P. Weicker, Jr.

1. What direct educational experience do you have and how does your experience apply to the position you are nominated for? Do you have any experience teaching, in educational research, in educational planning, in providing technical assistance in education?

ANSWER: My graduate work was in the field of education administration and I did field research to complete my Ph.D. dissertation requirements. As Vice President for Administration of the American Enterprise Institute, I supervised a five-fold increase in staff and a comparable budget increase. In addition, I shared responsibility for the $400 million budget of Fairfax County Schools as a member of the school board for over four years and had senior administrative responsibility for a major foundation.

Over and above my education and administrative experience, my career has encompassed Congressional staff service and work in private higher education.

2. State how the Office of Planning, Budget and Evaluation under your direction as Under Secretary will provide technical assistance to states? How will research priorities be determined? What means will be used to evaluate Federal education programs?

ANSWER: The study topics and priorities of OPBE are developed by OPBE through an annual iterative process which provides opportunities for the program, policy and analytic staff of the Department to identify:

- o the key issues facing the policymakers in both the near-term and long-term;
- o the information needed to resolve these issues;
- o the probable gaps in available information;
- o analytic projects intended to fill these information gaps;
- o the resources which will probably be available for policy analysis.

The process attempts, through conferences, informal discussion, and the exchange of current and historical information, to define projects to be undertaken which are most responsive to the identified information gaps. Proposed projects are designed to fill broad needs of Federal policymakers in the Executive Branch and Congress. Such policymaker needs differ from those addressed by NIE. The Institute's efforts reflect both research for new knowledge about learning and information for teachers, administrators and board members or practical questions (such as instructional techniques or school finance). As was the case last year, the Committee on Evaluation and Information Systems of the Council of Chief State School Officers will be asked to provide formal recommendations for priorities in evaluation and policy analysis activity for FY 1983.

Senator Lowell P. Weicker, Jr.

(2. cont.)

OPBE does not customarily provide technical assistance to the States although, on occasion, individual staff members of OPBE are called upon to act in an expert capacity to State and local agencies. OPBE is responsible, however, for one important assistance activity, which is the Technical Assistance Centers (TACs) for evaluation of ESEA Title I programs. These Centers are under contract to the Department, administered by OPBE, and supported with funds under a setaside from Title I appropriations. Technical assistance by the TACs has been widely requested by States and school districts since 1976. For example, during the 23 month period from November 1, 1980 through September 30, 1981, the TACs provided nearly 5,700 workshops and consultations, all at the request of State and local personnel.

Other Offices of the Department provide technical assistance to the States on a regular basis. To illustrate:

- o The Office of Elementary and Secondary Education provides technical assistance to LEAs and State agencies through a Chapter 1 appropriation setaside. Technical assistance is also provided to all grantees and entitlement projects under the Indian Education program by Resource and Evaluation Centers funded by OESE.

- o The Office of Bilingual Education and Minority Language Affairs provides support services under Title VII of ESEA which strengthen SEA capability to coordinate technical assistance to LEAs.

- o Under the basic State grants program for Rehabiliation Services, the Office of Special Education and Rehabilitation Services provides technical assistance to States in developing linkages with business and industry to expand employment opportunities to those served by State agencies. And the Office of Vocational and Adult Education is increasing its technical assistance to the States to facilitate the transition to block grants.

3. What role will your Office play in terms of the programs under the Education for All Handicapped Children Act? What do you see as the Federal role for Special Education and other programs for the handicapped?

ANSWER: As Under Secretary, I will have major responsibility for ensuring that the programs under the Education for All Handicapped Children Act are implemented to meet the Administration's objective of improving the ability of State and local education agencies to address the needs of handicapped children. We hope to make progress toward this goal through regulatory relief that will reduce administrative

Senator Lowell P. Weicker, Jr.

(3. cont.)

burden associated with complying with Federal mandates; through legislative amendments to the law that will simplify the administration of the program and increase the flexibility of State and local officials in serving the interests of handicapped children; and through support for discretionary activities that are targeted on special needs that cannot be effectively addressed by the States, such as research and demonstration projects.

As I see it, the role of the Federal Government with regard to the handicapped is to protect their rights to equal educational opportunity. The Federal Government does this in several ways: enforcing the Federal mandates that protect the rights of the handicapped such as those contained in Public Law 94-142 and section 504 of the Rehabilitation Act; providing financial assistance to State and local governments which have primary responsibility for educating these children; and providing support for a variety of discretionary activities that will help to improve the quality of education for these children.

4. You mentioned the need for a strong Vocational Education Program. How would you justify the Administration's proposals for FY 1983 to consolidate Vocational Education and Adult Education and reduce the funding by 32% from the FY 1982 level of the combined programs which is a 45% reduction for Vocational Education alone (if prorated)?

ANSWER: The budget reduction proposed for FY 1983 is part of the Administration's overall economic program, which aims at revitalizing the economy through a series of tax and budget cuts. Already these policies are having an impact, as the Consumer Price Index has fallen from 13.5 percent in 1980 to an annualized rate of 3.7 percent for the first quarter of 1982 and interest rates are starting to recede.

As part of this program, the Administration has requested budget reductions for vocational education. However, these requests should not be taken as evidence of a slackening of our commitment to vocational education. In fact, I believe that our proposed Vocational and Adult Education Consolidation Act, which focuses on the role of vocational and adult education in economic development, would lead to a strengthening of the entire vocational education enterprise. States would be given broad flexibility in developing and implementing programs related to State and local economic development and skilled workforce training needs. At the national level, an improved research, development, and demonstration capability would assist in this effort. Enactment of the consolidation legislation would also encourage increased cooperation between vocational and adult education, ensuring that our students receive both a solid foundation in the basic academic skills and the practical knowledge required for the modern workplace.

Senator Lowell P. Weicker, Jr.

(4. cont.)

Finally, I do not believe that our proposed funding reductions would have much impact on delivery of vocational education services. Only about one in ten dollars expended on vocational education at all levels comes from the Federal Government, so the proposed cutback would amount to only about 3 1/2 percent of the total expenditure. States and localities should be able to make up this shortfall from other sources or to target available resources to the most needed areas.

5. What have you accomplished (initiatives undertaken) to date as part of the Under Secretary's Office? In Congress as you have progressed with the various initiatives you have undertaken? In what way have you dealt with Congress?

ANSWER: Because I have not yet been confirmed as Under Secretary, I have been reluctant to take many direct initiatives as Under Secretary-designate. Most actions I have initiated have been management directives to eliminate delays in the Department's timely submissions to Congress. In addition, I have continued with my responsibilities as Deputy Under Secretary for Planning, Budget and Evaluation. Upon being confirmed as Under Secretary, I will assume responsibility for internal management and daily operation of the Department as well as serving the Secretary as his principal policy advisor.

In my current position, I have worked daily with Members of Congress and Congressional committees in formulating Federal education policies and setting budgets for more than 120 Department programs. I had the responsibility in the Department for development of the FY '83 budget and legislative initiatives. For example, I was one of the major architects of the student financial aid proposal and was responsible for developing Congressional support for the Department's many legislative programs.

6. Why did you not resign from the Fairfax School Board when you were first confronted with the possibility of a conflict of interest and it was suggested that you resign?

ANSWER: First, I was never asked to resign because of a "possibility of a conflict of interest" but because of an appearance of a conflict of interest. Second, I followed the advice of the Office of Government Ethics and the White House Counsel's office to resign from the school board upon being confirmed by the Senate to the position of Deputy Under Secretary.

I recognized the potential for an appearance of a conflict of interest. To avoid it I did not participate in any matter before the Department involving the school board and I did not participate as a Board member in any Department matter before the Board.

Senator Lowell P. Weicker, Jr.

7. You were quoted as stating that "No student will be denied an education simply because they cannot get the dollars". This is exactly what is beginning to happen. If statistics on those denied a college education due to inability to pay are gathered and confirmed by your Office, what will you position be on federal funding for student aid programs?

ANSWER: I do not agree with your assessment that students are being "denied a college education due to inability to pay." Student financial assistance from the numerous Federal Government programs is in most cases based on a students demonstration of need. While it's true some students' choice of an institution may be affected by our proposed budget levels, their access is still assured. For example, even with our proposed changes, depending on costs, an undergraduate student who demonstrates need would still be eligible each year for up to a $1,600 Federal grant, up to $2,500 in Federally guaranteed and interest subsidized loans, and Federally subsidized work-study support averaging $700. In addition, the student's parents could borrow an additional $3,000 guaranteed and subsidized loan on the student's behalf. In academic year 1981-82 four-year public universities charged approximately $820 in tuition and fees, and total annual costs for these students averaged about $3,875. Thus, together with reasonable student earnings and family contributions, and without even considering potential State and private aid, I believe that Federal student assistance under our budget proposals would continue to assure access to a college education as well as a measure of institutional choice.

As you know, our proposals have not been adopted. However, the student aid changes which have been enacted by Congress cannot be blamed for particular changes in patterns of college enrollment or volume of aid applications. Such changes involve many demographic and other factors. For example, I believe that a major reason for the apparent Guaranteed Student Loan application fall-off so far this year is simply very poor and misleading media coverage of recent Federal changes in that program. As you know, under the new GSL need analysis provisions actual eligibility for loans is not appreciably affected for most students attending medium to higher cost institutions.

The early reports by the media misled many students and their parents about the impact of the Administration's postsecondary education budget proposals by saying that aid would be drastically reduced or eliminated altogether for some groups. This created serious misunderstandings about our proposals for fiscal year 1983 as well as about actual aid availability this year. The Department of Education is still working hard to correct these misunderstandings.

Senator Lowell P. Weicker, Jr.

(7. cont.)

For their part, the States and institutions also share the responsibility of ensuring that no eligible student is denied a college education due to lack of financial resources or lack of information about the availability of financial resources. The Department's Office of Student Financial Assistance is working closely with the financial aid community to ensure that students and parents are well informed and that available assistance is provided on a timely basis.

8. In what ways were you involved in determining budget targets during this Administration? How are the requested funding levels determined? Will there be any changes in the Administration's approach to determining budget requests? If so, what?

ANSWER: The Administration followed the normal Executive Branch practice of determining budget request levels. The Office of Management and Budget, taking into account the overall economic situation, provided a total budget ceiling to each Department and agency. In my role as Deputy Under Secretary for Planning, Budget and Evaluation, I advised and assisted the Secretary in his function of allocating these resources among competing areas in the Department. I would anticipate no change from this procedure in the future.

Senator Orrin G. Hatch

1. Now that you have been with the Department of Education nearly a year, have your perceptions of its function or mission changed any during this time?

   ANSWER: No, my perceptions of the Department's function or mission have not changed.

   However, I have a clearer understanding of how the Department operates and what the problems are. This understanding puts me in a better position to contribute to the implementation of the President's philosophy on education.

2. A good deal has been said about the efforts of the Administration to ease the burden of the regulations pertaining to the handicapped. Last week the Supreme Court came down with a decision limiting the service that must be provided to handicapped students. Will there now be new regulations affecting the service being provided handicapped students, and if so, what direction do you feel they will take?

   ANSWER: The Education for All Handicapped Act regulation has been identified by the Administration as a priority for deregulation. That process has already begun and the proposed new rule was published on August 4, 1982. No new regulations are anticipated as a result of the Supreme Court's recent decision in limiting what must be provided by local school districts. In developing these proposed rules, the issue of related services was examined thoroughly and the proposed rule clarifies the related services provision. The position taken in the proposed regulation is in the same direction as the Rowley decision but was arrived at independently of the Supreme Court's ruling.

3. Your testimony suggests more and more colleges are likely to close due to declining enrollments. Is it also possible that the Administration's proposals on student financial assistance, may result in even more reductions in students available to go to college, and thus force more marginal schools to close?

   ANSWER: Demographic trends for the 80's clearly indicate a reduction in the number of 18-24 year old persons; the traditional college age group. This implies that college enrollments for this decade will fall regardless of the availability of student aid. However, this enrollment decline will not be evenly distributed among all types of institutions for geographic as well as economic reasons. Even in the best of times it is not unusual to find a small number of colleges opening and closing each year but it has been rather constant. In point of fact, the Department has been tracing the progress of 50 four-year public and private colleges for the past ten years. All in the group, originally selected at random, remain in operation.

   In addition, the increase in college costs, along with the coming decline in the number of college-age students will also increase the competition among institutions for students. Some of those colleges

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(3. cont.)

which are less than successful in meeting this challenge will curtail their activities or even close.

The Administration's FY 1983 budget proposal was designed to ensure that students would have access to funds necessary to finance the difference between college costs and the reasonable contribution of the student and his or her family. The students themselves would, of course, have the final choice of how, when and at what institutions they decide to enroll.

4. With interest rates so high, why does the Administration propose to go from grants to loans for graduate student who need financial assistance?

ANSWER: Under our proposals there will be no redirection of graduate students from grant to loan programs. Our student aid grant programs -- Pell Grants and Supplemental Grants -- have always been statutorily restricted to undergraduate students. Federal assistance to graduate students has historically been provided through the College Work-Study (CWS), National Direct Student Loan (NDSL) and Guaranteed Student Loan (GSL) programs.

The Administration is proposing a shifting of graduate student borrowing from the seven to nine percent heavily-subsidized regular GSLs to the less-subsidized 12 or 14 percent Auxiliary (PLUS) Loan component of the GSL program. We believe that student who have already obtained their undergraduate degrees should be in a position to meet their own in-school interest obligations, as necessary, via summer and part-time employment, or through increased repayments after graduation of the in-school interest is added to the principal obligation. The somewhat higher repayment levels following graduation are deemed reasonable given these students' higher expected future income once they begin their professional careers. This proposal is consistent with this Administration's view that a larger part of the costs of financing postsecondary education should be borne by its direct beneficiaries.

5. It is argued by some of my colleagues that the Administration's policy to no longer require bilingual education will have a harmful effect on the education of children with limited English speaking ability. What is your view on this concern?

ANSWER: The Administration's policy is to allow school districts greater discretion in choosing the best approach to meeting the needs of language minority children in their jurisdictions. This policy is based on the conviction that the Federal Government should not be in the business of prescribing particular curricular approaches to school districts. Research evidence is especially supportive of this position with respect to bilingual education. A Department of Education analysis

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(5. cont.)

of over 300 studies of programs for language minority children found mixed results. Sometimes bilingual education programs work well. Sometimes other approaches are more effecitve. A great deal of the program's success depends on how it is implemented. The Administration's policy should not have a harmful effect on children with limited English speaking ability. To the contrary, it increases the likelihood districts will be able to design programs to best meet the unique needs of their students.

6. Recently some teacher organizations charged that the Administration has done little or nothing to improve education in this country. They asserted that progress has been blunted, if not actually set back. How do you respond to these allegations?

ANSWER: This Country's greatest resources are an educated youth and a responsible citizenry. A high priority objective of the Administration is to encourage improved education achievement so our youth will be better prepared for their careers and their role as citizens. The Administration believes that two critical issues concerning how to provide such encouragement are (1) the economy (with its effects on tax bases for public agencies) and (2) respective roles of the Federal Government and the States under our Federal system.

With regard to the economy, reducing inflation improves the buying power of all education funding. Last year the 3.5 percent reduction in inflation retained $4 billion in effective funding for elementary and secondary education. Even greater effects on education finance are expected from the decline in inflation this year.

With regard to role questions, the Administration has advanced proposals to enhance the power of States and localities -- that retain Constitutional responsibility for education functions -- to make decisions. For example, the Administration proposed, and Congress enacted, Chapter 2 of ECIA that consolidates many programs and holds recordkeeping and procedural requirements to a minimum. Another block grant has been proposed in vocational education. In addition, proposed changes in the handicapped regulations will streamline Federal policies and reduce costs and administrative burdens on local districts. All of these measures will reduce excessive limitations on use of funds and otherwise permit education officials to be accountable for Federally-supported services.

In addition to these critical aspects of Federal action to improve education, the Secretary has two high priorities of his own -- his technology initiative and his National Commission on Excellence in Education. The technology initiative focuses on the present needs we have in this country for workers with stronger backgrounds in math, science, and technology -- and, in particular, on new demands such needs place on the educational system.

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(6. cont.)

The Secretary's National Commission on Excellence in Education has been created to make recommendations to the Nation and to the Secretary to promote excellence in public and private schools, colleges, and universities. Current educational problems and how to overcome them have been the topics of hearings throughout the country. These hearings run into the fall of 1982. A report will follow.

I would also like to note that, for the first time in 13 years, college entrance examination scores did not decline in 1981. Also, there are reports from some of our largest city school systems that students have made significant improvement in basic study skills as shown in tests administered during the 1981-82 academic year. Education is improving and prospects are that we will continue to see progress. Moreover, I believe this progress is attributable, at least in part, to the emphasis that all ED senior officials have been placing on teaching the basics, on measuring results and being accountable.

7. The Administration's tuition tax credit proposal was recently introduced in the Senate. This has brought further assertions from various educational groups that, if enacted, tuition tax credits would be devastating to the public school systems and would result in our having a two class school system - the best or wealthiest students going to private schools with an underfinanced public school system dealing principally with the poorly motivated students, those with economic or other hardships, etc. What is your answer to this criticism?

ANSWER: The enrollment effect on public schools is difficult to judge before the credit begins. However, there would be clear benefits from the constructive competition the proposal would encourage. As the President stated in his April 15 speech:

> "Private education is no divisive threat to our system of education. It is an important part of it. Our public schools offer quality education to our children and are the heart of our communities. We must ensure that their classrooms continue to provide the finest education possible. But alternatives to public education tend to strengthen public education. Taken together, public and private institutions sustain the diversity that has made our culture rich."

The Administration also believes parents should be assisted in making a choice when they believe it is best for their child. Parents choose private schools for a variety of reasons: because the child is having difficulty in the public school, because the private school is smaller, because it may provide a more strict disciplinary environment, or because it's more academically rigorous or imparts values of transcendent importance to parents. Moreover, while empirical evidence is limited, it does not support the contention that higher income pupils would be more likely than lower income pupils to enroll in private schools as a

Senator Orrin G. Hatch

(7. cont.)

result of a tuition tax credit. For example, when Minnesota had a tuition tax credit, from 1971 to 1974, the proportion of students attending nonpublic schools actually declined from 10.1 percent to 9.1 percent.

The beneficiaries of a tuition tax credit would be mostly middle and low income working families. As of 1979, according to a Bureau of the Census survey, some 54 percent of children enrolled in private schools come from families with incomes below $25,000. Since working families have not sent their children to private schools in proportion to their share of the population, the tuition tax credit would expand their ability to make a choice. Moreover, since the proposal is a credit, the dollar benefit is the same to all, unlike a deduction that would provide greater benefit for individuals in higher tax brackets.

Members of minority groups would also benefit significantly. A recent survey, for instance, showed that 18.6 percent of the students in Catholic schools -- the nation's largest private school sector -- were minority group members. The minority group percentage is even higher in private schools in many cities.

In sum, the Administration believes its proposed tuition tax credit legislation will strengthen our system of education by promoting diversity as well as by encouraging parental responsibility and choice.

8. According to recent articles and reports, there is a surplus of teachers in the so-called "soft subjects," and a severe shortage of teachers nationally in the fields of mathematics and the sciences. If this problem is national in its scope, what, if anything, should the Congress or the Education Department be doing about relieving the situation?

ANSWER: The problem of surplus teachers in "soft subjects" yet the shortage in mathematics, physics and chemistry is national in scope. In 1981, 43 out of 45 States responding to a national survey reported either shortages or critical shortages of mathematics teachers. For physical sciences, 42 States reported a shortage or critical shortage.

One important cause of the problems is that salaries paid to teachers are not competitive with what industry will pay. Some localities are meeting this problem directly.

- o In Pennsylvania, the school district of Philadelphia has initiated a three-year mathematics program to retain and retrain some of its teachers to fill the vacancies created by its severe shortage of mathematics teachers.

- o Houston is offering higher pay to teachers in shortage areas.

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(8. cont).

- o In the Bronx, New York City, teachers at Riverdale Junior High School sought to increase interest in science by assigning each student a science project. Volunteers (e.g. a doctor, engineer, other students) were recruited to assist the individual student with his or her project. The program has been so successful that students from the high school have been capturing top prizes in the city science fair, and student interest in science has greatly increased.

The ED priority on instructional technology also shows promise to help alleviate this problem. The low cost micro computer has been proven to very proficient in helping students in the subject of mathematics.

In addition, this Administration is concerned with the problem of teacher shortages and is addressing it in ED and elsewhere. For example, the National Science Board has established a Commission on Precollege Education in Mathematics, Science and Technology, which is examining this issue along with others and will make recommendations. In addition, the Secretary's Commission on Excellence in Education is addressing this issue in its hearings across the nation, with particular concern for teachers of science and mathematics. This Administration in general, and ED in particular, is cognizant of the problem and is in the process of determining appropriate Federal action.

Senator Thomas Eagleton

1. Prepare a list of policy decisions that are past due including a target date for resolution.

ANSWER: The only area of policy development in which the Department is behind schedule occurs with regulations. At this time, the regulations mentioned by Senator Stafford in my hearing, the Family Contribution Schedule for Pell Grant and Campus-Based Assistance, contain no outstanding Department policy issues.

These regulations were sent to the Federal Register, and were published on August 2, 1982. However, during the public comment process issues may arise that need resolution. The Department hopes to have a final Family Contribution Schedule in place for the 1983-84 fiscal year no later than the end of October but this depends in part, on Congressional approval. Another regulatory issue not specifically mentioned at my hearing, the Guaranteed Student Loan Family Contribution Schedule for 1983-84, is still in the process of development. We expect resolution of all outstanding issues with a publication by the middle of September. In addition, the regulations to implement the State Administered Programs under Chapter 1 of the Education Consolidation and Improvement Act have been transmitted to the Office of Management and Budget. No further Education Department policy decisions are involved unless OMB raises questions. That regulation should be published within the next few weeks.

Since I testified before your committee, proposed regulations implementing the Education of All Handicapped Children Act have been finalized and have been approved for publication.

2. Are there letters originating in the Department which express unwillingness to enforce civil rights provisions? If so, please provide copies.

ANSWER: To the best of my knowledge no official of the Department of Education who is charged with the responsibility for enforcing civil rights laws has written a letter which expressed an unwillingness to do so.

In a letter to Senator Paul Laxalt dated April 24, 1981, the Secretary expressed some concerns resulting from overzealous interpretation in enforcement of civil rights laws. I have attached a copy of that letter for your information.

The Secretary's commitment to uphold the law in clear cases of discrimination is unwavering, and has been put to the test numerous times, notably in the case of Perry County school district in Mississippi, where enforcement action was taken to terminate Perry County's receipt of Federal funds. This extreme measure had not been invoked in nearly ten years, since the Nixon Administration.

THE SECRETARY
WASHINGTON, D.C. 20202

APR 24 1981

The Honorable Paul Laxalt
United States Senate
Washington, D.C. 20510

Dear Senator Laxalt:

Thank you for your letter of April 16. Let me say that I will be reviewing the Department's plan for compliance activities closely, including those affecting intercollegiate athletics.

With respect to your specific questions, the following information was prepared by the Office for Civil Rights (OCR). The budget data used here includes: salaries, benefits, and support costs such as case-related travel and training. A copy of the OCR Title IX Intercollegiate Athletics Enforcement Plan and modification are enclosed for your reference.

1. Of the 1,082 Title IX complaints OCR anticipates closing in fiscal year 1981, 144 are related specifically to Title IX intercollegiate athletic activities.

2. For the resolution of Title IX intercollegiate athletic complaints, OCR anticipates utilizing 12 regional investigative staff years at a cost of $397,620. For general Title IX complaints, OGC has allocated 50 regional investigative staff years at a cost of $1,954,965.

3. OCR believes that approximately half of the regional investigative staff time that was allocated to the enforcement of the Title IX intercollegiate athletics regulations during fiscal year 1981 was expended during the first four months of the fiscal year. However, because the OCR work measurement system now in operation does not measure time expenditure by specific issue or jurisdiction, OCR has no way of knowing exactly how much time has been spent in this area. OCR is in the process of adding this capability to their work measurement system. In an effort to answer your specific question, OCR estimates that approximately six regional investigative staff years and approximately $200,000 was expended during the first four months of fiscal year 1981 on Title IX intercollegiate athletics complaint investigations. OCR records do not show what funding resources are spent by sources outside the Department for this purpose.

4. OCR has allocated 77 staff years to the resolution of Title VI complaints; the budget dollars associated with this activity are $2,551,395.

5. The total regional investigative staff time devoted to complaint resolution by OCR is 296 years. The budgetary resources for this regional activity are $9,807,960.

In retrospect, it seems that the fiscal year 1981 Annual Operating Plan for OCR underestimated the staff needed to investigate compliance with the new Title IX regulations on intercollegiate athletics. In light of this, OCR has narrowed the Title IX intercollegiate athletics enforcement plan to streamline the size of investigations and investigative teams.

In my opinion, the Title IX regulations need to be modified. I have already taken action to withdraw the dress code rules written in connection with Title IX. (This action has resulted in a number of vigorous protests, but I do not believe that we have any Federal right to interefere with local issues of length of hair, beards, and skirts on school and college campuses.) I am still reviewing these and other regulations and plan to take action to cut back as much as I can under the law and under the restraints and demands imposed by the courts.

Finally, for your information, I am enclosing a copy of a contempt of court complaint that was delivered to my office yesterday. You can see from this complaint that the Federal courts may soon be after us for not enforcing civil rights laws and regulations. Your support for my efforts to decrease the undue harassment of schools and colleges would be appreciated. It seems that we have some laws that we should not have, and my obligation to enforce them is against my own philosophy. Hopefully, the new administration and the new majority in the United States. Senate can join in an effort to make some long overdue changes and improvements in civil rights laws.

Please let me know if this information answers your questions adequately.

Sincerely,

T. H. Bell

Enclosures

Senator Thomas Eagleton

3. Is there anything brewing at the Department of Education on any proposed regulations which would remove Guaranteed Student Loans from the definition of Federal financial assistance?

ANSWER: The Secretary has sent to the Department of Justice a notice of proposed rulemaking which would amend the Title VI, Title IX, and Section 504 regulations to recognize that Guaranteed Student Loans and parent loans are programs under which Federal financial assistance is extended by way of contracts of insurance or guaranty. The civil rights statutes themselves provide that such programs are not covered. At least one Federal District Court has held that Guaranteed Student Loans fall within the exemption for "contracts of insurance or guaranty." We are awaiting the results of the Department of Justice's review of the proposed rule.

4. Would you comment on whether that [GSL change] would open the door for loans to be granted to students attending institutions which discriminate against certain students?

ANSWER: If a door has been opened, it was opened by Congress. Title VI and Title IX state explicitly that they do not cover "programs or activities under which Federal financial assistance is extended by way of a contract of insurance or guaranty." (See, for example, Section 605 of the Civil Rights Act of 1964, 42 U.S.C. 2000d-4). Therefore, none of these statutes prevents a student who attended an institution which discriminated from obtaining a Guaranteed Student Loan. However, as the Secretary pointed out on May 12, 1982 in his testimony before the Subcommittee on Higher Education of the House Education and Labor Committee, there can be no discrimination in the processing of these loans under the Equal Credit Opportunity Act. Obviously, also, public institutions are subject to the strictures of the Equal Protection Clause of the Fourteenth Amendment.

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UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF THE UNDER SECRETARY

AUG 18 1982

The Honorable Thomas Eagleton
United States Senate
Washington, D.C. 20510

Dear Senator Eagleton:

At my confirmation hearing on July 19, you requested that I draft a memorandum to the Detroit Superintendent of Schools describing the Administration's policy initiatives and how they will benefit the schools.

My response to your request is enclosed. I did not send this with my earlier responses to Committee questions transmitted last week because I wanted to meet with the Superintendent, Dr. Arthur Jefferson. He and I had a discussion last Thursday, and I have completed my comments since that visit.

First, Detroit's public school enrollment declined 25 percent between 1970 and 1980.

Second, I believe the Superintendent shares my view that the most important single policy of this Administration with regard to strengthening the Detroit schools is national economic recovery. By far the largest share of funding for Detroit schools--some 86 percent--comes from the State of Michigan and the City of Detroit. The restoration of Michigan's economy is, consequently, essential to funding sources on which the Detroit schools depend. Michigan's economic base also influences the views of voters when they are asked to decide on fiscal matters involving the State and local tax structure. To dismiss national economic health as a Federal policy goal irrelevant to education, as some would do, is simply to ignore the facts.

My paper emphasizes economic recovery as an aspect of Administration policy especially important to funding of Detroit schools. It points out that the drop in rate of inflation in Detroit (from 15.7 percent in December 1980 to 3.1 percent in June 1982) has already far exceeded--in $84 million of retained purchasing power for the schools--the reduction of their total budget (about 4 percent) that would result from the President's proposed budget levels over a 2-year period.

Third, my paper also sets forth the Administration's broad views as to ways Detroit can benefit from reduction of Federal prescriptions through (1) regulations and statutory requirements, from (2) greater freedom to make decisions about appropriate use of its funds, and from (3) development of new practical information. Specific examples include:

- o The Education Consolidation and Impovement Act (ECIA) enacted in 1981, which combines 28 categorical programs into a single block grant to the States.
- o The already accomplished elimination of 30 regulations from the Federal Register as a result of the ECIA block grant authority.
- o The review of about 200 more departmental regulations for the purpose of eliminating excessive administrative requirements.
- o Legislation still pending in Congress would reduce Federal prescriptions, under the Vocational and Adult Education Consolidation Act.
- o Proposed legislation would provide increased flexibility in methods that can be used for instruction of children of limited English speaking ability.
- o The proposed Foundation for Education Assistance, would emphasize the function of the Federal Government to develop and disseminate practical information for the schools.
- o Recently announced proposed regulations for education of the handicapped will eliminate excessively detailed and costly procedures that detract from education needs of the handicapped.
- o The recently established Commission on Educational Excellence, which will present in March its practical recommendations for specific actions to be taken throughout the nation to improve American education.
- o Secretary Bell's recent technology initiative, which will assist local schools in applying modern information technology to improving teaching and learning.

Congress has enacted a few of these initiatives and some have been or will be put into place administratively. However, if Detroit is to achieve the savings and gain the flexibility to determine its own practices as proposed by the Administration, Congress must enact other policy proposals.

Fourth, the Detroit public schools have already responded creatively to challenges they have been facing. Dr. Jefferson has cut administrative costs and pushed hard and successfully for increased efficiency. Through his leadership, the system has undertaken many constructive initiatives to improve Detroit schools. For example, Dr. Jefferson is keenly aware of the importance of educational technology and is planning to provide computer education throughout Detroit lower schools, with the aid of Federal as well as private funds. Detroit is an excellent example of a local community that has identified its own needs and has searched out ways to address them, through its own creativity or by adopting and adapting from the work of others. The result has been steady improvement since 1975 in test results in mathematics and reading in the Michigan Educational Assessment program. More than a year ago, Dr. Jefferson was able to report:

> Detroit students are learning more, more quickly, and with greater enthusiasm--as evidenced by improvements in State and national achievement test scores and by student victories in local, State, and national academic competitions.

Finally, my conversation with the Superintendent reminded me that the Federal Government perspective is frequently skewed to one or a few "programs," to a new policy, or to a piece of legislation. Only at the local level are these fragmented and incomplete pieces--and more from the State--merged into a whole picture of revenues and services for school children. Of course, the Superintendent and I did not agree on every element of the Administration's program initiatives or on each budget proposal, nor did we share the same perceptions of the Administration's philosophy in every case. However, I believe Dr. Jefferson did look with favor on the general direction of Administration changes that would free Detroit of excess Federal prescriptions that have prevailed in recent years.

The Administration's program described in these pages is one that will be good for education, good for students, and good for the nation.

Sincerely,

Gary L. Jones
Under Secretary-Designate

Enclosure

THE EFFECTS OF THE ADMINISTRATION'S POLICIES ON EDUCATION IN DETROIT: A RESPONSE TO SENATOR EAGLETON'S QUESTION

I. Overview

In analyzing the educational and fiscal difficulties of the Detroit school system and sugesting the ways in which the President's programs are helping to solve those difficulties, one must bear in mind the central fact that the Constitution did not delegate responsibility for education to the Federal Government. Elementary and secondary education in this country is primarily a State and local responsibility. In accordance with the Constitution, the President believes the direct Federal role in public elementary and secondary education should be focused on specific and limited national-level responsibilities, which include:

- Assuring equal educational opportunity for all children (e.g., educationally handicapped or racial minorities).
- Improving educational quality through Federal research and dissemination.
- Providing limited support for locally initiated educational improvements.

This response will show how exercise of these educational responsiblities in combination with broader Federal responsibilities is helping the Detroit school system solve its current problems.

The Detroit school system clearly faces a number of challenges. Although enrollment has been declining, higher proportions of its students are high-need minority and/or low-income children. While the real spending per pupil doubled from 1968-69 to 1979-80, the school system's budget deficit may top $37 million by fall 1982. The underlying problem is that its revenue base, both locally and at the State level, has been eroded by the current recession and the declining automobile market.

The President's economic program is designed to address these economic difficulties that are basic to the financial problems of education in cities like Detroit. His education program meanwhile focuses on effecting changes and initiating programs that will help reduce the financial burden on local school districts and also provide leadership in devising effective ways for them to assure better education. Together, the economic and education programs are helping troubled school districts in the following three ways:

1. By fostering economic revitalization to strengthen the State and local tax base on which education revenues depend. The present drop in the annual rate of inflation already has far exceeded--in retained purchasing power for the schools--the percentage of reduction of their total revenues that the President's budget would provide over a 2-year period.

2. By eliminating unnecessary regulations and unwarranted program restrictions in the field of education. The savings effected by these reductions can be used directly for education improvements at the local level.

3. By actively promoting excellence in education through leadership, research, and dissemination, with emphasis on strengthening the local school district's own capacity for self-improvement.

The President believes these initiatives will be effective in helping communities such as Detroit meet the challenges of the future.

This paper first discusses Detroit's fiscal and educational situation in some detail and then suggests how Administration policy is responding.

II. The Fiscal Situation of the Detroit Schools

The fiscal issues that confront the Detroit public schools must be understood in the context of the structure of school finance in this nation. State and local governments provide over 90 percent of all revenues for public elementary and secondary education. Federal assistance, which accounts for less than 10 percent of revenues, is focused on specific and limited goals that are deemed appropriate responsibilities of the national government.

The financial outlook of the Detroit public school system thus depends upon the general financial conditions at the State and local levels, from which most of Detroit's school revenues are derived. With respect to these finances, Roy Bahl, a noted State and local finance expert, wrote in a paper prepared for the Joint Economic Committee of the United States:

> More than any other factor, the performance of the national economy will shape the financial health of State and local governments in the 1980's. Slower economic growth, a higher rate of inflation, and recessions or the expectation of recessions all will markedly affect the structure and growth of State and local budgets.*

Dr. Bahl's view of the central role of the economy in State/local finance is most appropriate for education finance in general, and for Detroit's finance in particular. The effects of the economy on education are explored below for the nation, Michigan, and the Detroit school system.

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* Roy Bahl, "State and Local Finance: Adjustments in a Changing Economy." Joint Economic Committee, Washington, D.C.: 1980, p. 47.

The National Level

Public elementary and secondary school spending in this country has historically been significantly related to (although not solely determined by) the rate of national economic growth. Table 1 suggests the strength of the relationship between school spending per pupil and the condition of the economy as measured by two key economic indicators, inflation and real rate of growth in the Gross National Product (GNP).

TABLE 1. Amount and annual percentage changes in expenditures per pupil, inflation rate, and real rate of growth in the Gross National Product in the United States: 1971-72 to 1979-80

Year	Expenditure per pupil		Inflation rate	Real rate of growth (Percent change in GNP in constant $)
	Amount (in constant $)	Annual percentage change		
1971-72	1,747	4.0	3.4	5.7
1972-73	1,850	5.9	8.8	5.8
1973-74	1,884	1.8	12.2	- .6
1974-75	1,939	2.8	7.0	-1.1
1975-76	2,002	3.3	4.8	5.4
1976-77	2,065	3.2	6.8	5.5
1977-78	2,154	4.3	9.0	4.8
1978-79	2,174	1.2	13.3	3.2
1979-80	2,169	-.2	12.4	- .2

SOURCE: Columns 1 and 2 from The Condition of Education, 1982, page 62; column 3 from the 1982 Economic Report of the President, p. 296; column 4 from the 1982 Economic Report of the President, p. 239.

The decade of the 1970's was one of sporadic economic growth. The years 1971-73 were ones of fast growth. An economic downturn followed between 1973 and 1975, which was aggravated by a period of rapid inflation related to the oil price increases. Business conditions improved through 1978. However, the end of the decade was characterized by a return to double-digit inflation and no growth in GNP.

The pattern of real spending per pupil in education parallels closely the conditions in the economy. Education spending, which grew rapidly during the early 1970's, slowed during the mid-decade recession. Significant growth in school resources per pupil resumed with the economic upturn, but in recent years the growth in school spending has again slowed. In 1979-80 real per pupil spending actually declined.

The State Level

Michigan's dependence on the fortunes of the automobile industry has made its internal economy extremely sensitive to the overall state of the national economy. The 1970's were a particularly unstable period for Michigan. Initially the Michigan economy prospered from general economic growth. Then the enormous hike in oil and gasoline prices led to a serious economic slowdown during the mid-1970's that curtailed domestic auto sales. Between 1973 and 1975, domestic auto sales fell from 9.67 to 7.05 million units a year. The auto market improved when oil prices eased and the State's economy temporarily grew somewhat stronger with sales rising to 4.3 million units. However, by 1978 a combination of high interest rates, inflation, and higher unemployment brought Michigan's economy into extremely hard times. Domestic sales fell to only 6.2 million units in 1980.

In 1970, the Michigan unemployment rate was 5.9 percent. Reflecting the economic decline of the late 1970's, it rose to nearly 13 percent in 1980. The percent of Michigan's population receiving aid that year was the second highest of any State in the country in 1980. Per capita income in Michigan was still above the national average in 1979, but Michigan did decline from 14th in 1969 to 17th in 1979 in its national ranking by State on per capita income.

Michigan's worsening economic position directly contributed to the slower growth in its school expenditures per pupil than occurred nationwide (see table 2). Michigan's expenditures were 12 percent above the national average in 1971-72, but its per pupil expenditures fell to near national levels by 1980-81 as Michigan's economy weakened.

TABLE 2. Comparison of current operating expenditures per pupil in Michigan and in the United States: 1971-72 to 1980-81.

Year	Expenditure per pupil		Ratio of Michigan to U.S. average
	Michigan	U.S. average	
1971-72	$1,175	$ 934	1.26
1972-73	1,271	1,026	1.24
1973-74	1,348	1,207	1.12
1974-75	1,547	1,255	1.23
1975-76	1,626	1,504	1.08
1976-77	1,814	1,638	1.11
1977-78	2,107	1,823	1.16
1978-79	2,446	2,021	1.21
1979-80	2,640	2,275	1.16
1980-81	2,461	2,350	1.05

SOURCE. U.S. Department of Education, National Center for Education Statistics.

Although spending at the national average may not be cause for concern, problems can occur when it is reached through decline. For example, Michigan has had to maintain the relatively high salary position of its classroom teachers--salaries 120 percent of the national average. As a consequence, the average class size in Michigan is now more than 10 percent above the average class size in the nation.

In summary, Michigan's poor economy and high unemployment has contributed to a decline in school resources per pupil in Michigan compared to the nation as a whole.

The City Level

The fiscal condition of the Detroit schools is determined by several factors. One is the economic status of the revenue sources upon which the Detroit schools draw for their funds. Second is enrollment, which in Detroit, as in many urban areas, has been in sharp decline.

Detroit, of course, depends primarily on State and local revenue sources to finance its schools. In 1979-80, about 57 percent of Detroit's total revenues came from State (or intermediate) government sources, about 30 percent from local sources, and about 13 percent from the Federal government. Thus, the revenue picture for the Detroit schools is largely determined by resources available from the Michigan State government and from Detroit's own tax base.

Detroit also experienced a decline in the number of students enrolled. Between 1970 and 1980, enrollment declined by 72,000, or about 25 percent. This decline is about 70 percent greater than the 14 percent national decline in elementary and secondary school enrollments during the same period. Detroit's enrollment falloff is around the midrange for large cities. Some districts, such as Cleveland and St. Louis, absorbed declines of over 40 percent. Other districts, including Dade County (Miami), Los Angeles, and New York City experienced much smaller decreases than did Detroit.

On balance, Detroit managed to improve its school resources despite a worsening economy. Table 3 compares Detroit's average current per pupil expenditures, class size, and classroom teacher salaries for the 1968-69 school year with those of 1979-80. The table shows an approximate doubling

in real spending per pupil over the 11-year period. A large part of the increased spending went to reduce class size by almost 30 percent, from 30.8 to 22.8 pupils per teacher. Teacher salaries also grew in constant dollars, although the growth was only about 10 percent.

TABLE 3. Current expenditures per pupil, class size, and teacher salaries in Detroit: 1968-69 and 1979-80

Year	Average current expenditures per pupil (1980 $)	Pupil/teacher ratio	Classroom teacher salaries (1980 $)
1968-69	1,281	30.8	18,820
1979-80	2,420	22.8	21,082
1981-82	2,680	---	26,320

Source: U.S. Department of Education, National Center for Education Statistics; Consumer Price Index from 1982 Economic Report of the President.

These statistical indicators of improved resource levels could be deceptive, however. First, much of Detroit's resource improvement in the pupil expenditures and pupil-teacher ratio has occurred at the same time as a 25 percent enrollment decline. These declines have meant disruption in the educational process as schools close and teachers are transferred. Teachers are often reassigned to nonclassroom positions where they show up in the statistics, regardless of their educational contribution. Second, past trends are a poor predictor of the present and future financial outlook for Detroit. The city school system's budget deficit now threatens to top $25 million by the end of summer 1982. Almost 220 teacher layoffs are now projected for next year.

III. The Federal Government's Response

Current Federal policies will help the Detroit schools in three ways: by (1) improving the revenue sources tapped by Detroit, (2) removing Federal impediments to Detroit's efforts to increase productivity without increasing costs, and (3) making assistance available to Detroit to improve the quality of its education. All strategies are needed, and all are addressed by present Federal policies.

The President's Economic Program

The Federal Government is responsible for the broader goal of working toward the productive growth and vitality of the American economy. Such revitalization of the national economy will strengthen public education in Detroit and in Michigan as well as throughout the nation. Briefly, the President's domestic program is composed of four fundamental strategies particularly relevant to education:

- Reducing taxes to stimulate saving, investment, work effort, and productivity.
- Reducing the growth of overall Federal spending by eliminating Federal activities that overstep the proper sphere of Federal government responsibilities.
- Reducing the Federal regulatory burden in areas where the Federal government intrudes unnecessarily into private lives or interferes unnecessarily with the efficient conduct of private business or of State or local government.
- Supporting a moderate and steady monetary policy to bring inflation under control.

The President's program will require restraint in governmental spending, including Federal spending in education. His FY 1983 budget calls for a 30 percent reduction over the FY 1981 to FY 1983 period. This would roughly translate to about a 4 percent reduction in Detroit's total

education revenues over that time. This percentage was exceeded when the rate of inflation in Detroit dropped from 15.7 percent in December 1980 to 3.1 percent in June 1982 (a reduction of 12.6 percentage points), retaining for the schools purchasing power of about $84 million. Income, sales, and property tax bases--the major sources of Detroit's and Michigan's public school support--will be strengthened by the President's long-range economic program. This program is the most basic and far-reaching step toward solving Detroit's school finance needs.

Federal Education Reforms

The President's economic program is not the only way in which the Federal Government seeks to address the condition of education in cities like Detroit. While the economic program is improving the revenue sources available to local school districts, a comprehensive program of education reforms has been proposed to help make local funds go farther. They will accomplish this basically in two ways: (1) by reducing costly administrative burdens and (2) by providing school districts with the opportunity to adapt programs creatively to local situations.

Educational consolidation and improvement.--During the 1960's and 1970's the enormous explosion of Federal involvement in education achieved some major benefits--especially in our national drive to reduce inequality of opportunity. The almost 100 separate elementary and secondary programs operated by the Department of Education at the beginning of the Reagan Administration may each have originally had a justifiable purpose stemming from a demonstrated need, but the growth in the size of the Federal education enterprise produced unintended and serious consequences. Cumulatively, Federal education programs created excessive burdens and costs and sent conflicting signals to State and local educators.

The most obvious effect of multiple programs has been the paperwork and administrative load they placed on States and school districts. In 1980, State and local governments spent about 2 million employee hours filling out Federal Education Department reporting forms. As a result of these demands, administrative activities have consumed increasing amounts of State and local agency resources, and disproportionate amounts of Federal dollars have had to be used for program administration.

The Federal program structure also has generated conflicting signals, as a multiplicity of self-contained programs have combined to make inconsistent demands on local educators. For instance, the policy and fiscal tracking requirements of the Title I program have encouraged "pullout" classes, where children leave their regular classroom for short periods of time to receive supplementary instruction. The unintended consequence at times has been the resegregation of minority children within schools, the separation of bilingual from monolingual children, and the removal of the handicapped from regular classrooms--all clearly the opposite of Federal policies.

In addition, many Federal education programs have adopted approaches that emphasized compliance and enforcement. These approaches may have been justified when the programs were first established, since States and school districts often appeared to resist change in their treatment of target children. Yet the continued focus on compliance and enforcement has had the effect of treating school districts that are committed to Federal goals and priorities in the same way as those that are not. Such a policy has wasted resources in those districts that comply willingly with Federal policy aims.

The focus on compliance and enforcement has caused particular problems when it has been combined with the mandating of particular instructional approaches. The previously proposed regulations to enforce Title VI of the Civil Rights Act for language minority children (the Lau regulations) were intended to insure access of children of limited English-speaking ability to understandable instruction. The proposed regulations would have translated this goal into a requirement that districts use a particular instructional approach--bilingual education--to the exclusion of other instructional strategies, such as English-as-a-second-language or English-immersion approaches. Mandating the use of a single instructional approach to meet a civil rights requirement ignores the factors that might make the bilingual method work in some settings but not in others and prevents consideration of relative cost.

Furthermore, when the growth in Federal education programs began, State governments were not a dynamic force for educational improvement. Since then, however, State departments of education have grown in size and have taken the lead, along with State legislators, in efforts such as minimum competency testing and school finance reform. Michigan typifies this State initiative. In 1980-81, Michigan's State budget provided $108.3 million for the handicapped, $22.8 million for the educationally disadvantaged, and $3.2 million for bilingual education.

In response to these developments, the Administration has prepared a program of legislative consolidation and improvement to reduce excessive administrative burdens, improve coordination across Federal, and between Federal and State, education programs, and give State and local agencies increased

control. Sufficient funding was retained to help the States assure equal educational opportunity for all children under present circumstances.

As part of its FY 1982 budget, the Reagan Administration proposed significant changes in the structure of elementary and secondary education programs. Major reforms were enacted in the Education Consolidation and Improvement Act. The Chapter 1 simplifications reduced restrictive Federal tracking requirements and relaxed questionable reporting and procedural requirements such as those for advisory councils.

Title I was the centerpiece of Federal aid to elementary and secondary schools for over 15 years, providing over $3 billion per year for distribution to 14,000 eligible school districts. As revised in Chapter 1, this formula entitlement program will continue in much the same way, but with a slightly reduced budget and with greatly reduced administrative and regulatory requirements. State and local education agencies will have more control over the design and implementation of their programs for serving educationally disadvantaged children, while the role of the Federal Government will be more limited to the areas of ensuring fiscal accountability and equal access, and of supporting State and local school improvement efforts.

For the 5 years from 1977 through 1981, the Title I grants to Detroit increased over 60 percent (from $22.7 million in 1977 to $37 million in 1981), even though the school enrollment for that same period of time declined by about 5 percent (from 226,000 in 1977 to 216,000 in 1981). In 1982 the Title I grant was approximately $33 million, representing about an 11 percent drop. The Administration believes that despite these

very necessary budget cuts, the quality and scope of services provided in Chapter 1 can be maintained and possibly even improved. This can be accomplished by greater attention to the instructional components and the cost-effectiveness of locally designed programs.

Chapter 2 of the Education Consolidation and Improvement Act combines 28 categorical programs into a single block grant to the States, along the lines proposed by the Administration. The funds must continue to be used for the purposes authorized in the previous programs, but decisions concerning educational needs and priorities have been left to the judgment of State and local educators. This block grant is the most comprehensive attempt to date to reduce the number of Federal education programs and their requirements as well as to allow greater decisionmaking by States and localities.

Deregulation.--The goal of the Administration's deregulation activities in general, and of deregulation in education in particular, has been to insure that regulations do not require more from State and local agencies or grant recipients than is required by statute. Particular attention has been paid to areas where decisionmaking responsiblities can be vested in State and local agencies rather than in the Federal government and where paperwork and compliance burdens can be reduced.

In the past year there has been a significant reduction in paperwork and reporting burdens. A primary example of this has been the elimination of many administrative requirements linked to programs included in Chapter 2 of the Education Consolidation and Improvement Act of 1981. The Secretary of Education used this opportunity to cancel 30 sets of regulations, making

up 118 pages of the Federal Register. The elimination of these regulations, which governed more than 1,700 grants and contracts each year, has resulted in substantial savings including, for example, $1.5 million in application preparation costs and 200,000 pages of applications.

The newly proposed regulations for Assistance to States for Education of Handicapped Children would reduce or eliminate numerous requirements for detailed documentation of State policy. The proposed rule would allow States to decide how best to provide the information, perhaps updating information already on file with the Department rather than repeating the submission each year.

During the next year a total of 200 Departmental regulations will be reviewed for the purpose of deregulation. Many of these regulations contain excessive administrative requirements, which will be eliminated.

Legislative Proposals.--The President has proposed comprehensive reform legislation that would greatly increase the discretion of State and local education agencies over the uses of Federal education funds. Such discretion would enable State and local education agencies to make better use of Federal funds by targeting them to specific local areas of need, by coordinating them appropriately, and by adapting methods to the local situation.

The Administration's proposed Vocational and Adult Education Consolidation Act is an example. The proposal embodies the following strategies:

- Consolidation of the existing categorical programs into a single block grant to the States, plus a small set-aside for discretionary projects in areas of particular national significance.

- Maximum cooperation with the private sector in the design and operation of basic and occupational skills training programs.
- Funds are to be allotted on the basis of population and number of unemployed persons, in three age cohorts, and inverse per capita income.
- Simplification or elimination of current requirements regarding State administration, planning, evaluation, fiscal accountability, public participation, and reporting of data.
- Enhancement of vocational and adult education as an important component of local, State, and national economic development policies.

As part of the "Federalism Initiative" announced by President Reagan in his 1982 State of the Union Address, more than 40 programs would be turned back to the States, starting in 1984. The education programs included in this initiative are the Vocational and Adult Education programs, Chapter 2 block grants, and the Rehabilitation Services program. Revenue sources equivalent to the dollar level of the predecessor programs would be returned to States. Between 1984 and 1987 trust funds allocated according to shares of funds received under 11 antecedent education programs (in fiscal 1979 to 1981) would be operated at the Federal level for participating States.

The Foundation for Education Assistance, if established, would limit the Federal Government's role in education to the effective performance of specific national-level functions. The Foundation as a non-Cabinet agency would continue to administer block grants and consolidated aid for States and school districts, as well as major funding programs such as compensatory education and student financial aid. It also would maintain a core of continuing informational, statistical, and research services for Detroit and other school districts as well as States, private

schools, and higher education institutions. Its role in civil rights would include complaint investigations, compliance reviews, and negotiations of voluntary compliance; enforcement activities would be carried out by the Department of Justice.

The Detroit school system would receive funds under all the proposed reforms. These reforms would improve the efficiency of Federal programs, reduce or eliminate unnecessary administrative requirements, and hence improve resource utilization in a time of limited funds. This critical legislation awaits Congressional action.

Promoting Excellence in Education

New Knowledge.--Federal research and data collection, with emphasis on strengthening excellence in education, can help financially troubled districts such as Detroit use resources more efficiently. Federally supported research, much of it initiated and coordinated by the National Institute of Education, has paid off by increasing our knowledge of what makes education programs work. Recent studies have identified factors associated with effective schools and programs, many of which can be implemented at little or no extra cost to districts. For example, effective schools are those that function as a unit in which many factors combine to create a favorable learning climate: principals with strong leadership and management qualities are involved in instruction; teachers have high expectations of students; the instructional emphasis is clear, stable, and focused on basic skills; and students receive frequent evaluation and feedback.

At the program level, federally funded research points to discoveries that will promote student learning within the classroom: the amount of time a student attends class and is actively engaged in learning is directly related to the student's academic success and achievement; continuity of instruction facilitates student learning; and the degree to which a student achieves proficiency in the content and skills of previous work is directly related to the student's ability to complete the next level of work.

The Commission on Educational Excellence.--Secretary Bell recognized the centrality of the Federal role in knowledge development in two major new initiatives recently launched by the Department: (1) the Commission on Educational Excellence, and (2) the technology initiative.

The Commission was established by the Secretary last year to improve the quality of American education. Its major function is to make practical recommendations for action to be taken by educators, public officials, governing boards, parents, and others having a vital interest in American education and a capacity to influence it for the better. The practical recommendations, due in March 1983, should be of great value to school districts throughout the country, including Detroit. Other Commission functions include synthesizing data on the quality of learning and teaching, comparing school curricula, and reviewing successful educational programs, all with the purpose of providing recommendations that will help local school systems use their limited resources more effectively. The Commission is an example of how a Federal leadership role might be established to promote solutions to national needs. Detroit and other local school districts should benefit from the Commission's findings.

The Secretary's technology initiative.--This initiative, announced in a national teleconference on June 21, 1982, will assist schools such as those in Detroit in applying modern information technology to improving teaching and learning.

Modern electronic information technology--computers, video recording devices, and inexpensive means of transmitting information--have created a revolution comparable to the invention of printing and the Industrial Revolution. The information revolution is making profound changes in the way business and industry are conducted and in the nature of many jobs. The new technology thus makes new demands on education to prepare students to take advantage of the technology in their jobs and their personal lives. The technology itself provides a means for meeting these demands and also a means of responding to the increasing need for high-quality instruction in mathematics, the sciences, and the use of language.

Not a new Federal aid-to-education program, the limited discretionary initiative is designed primarily to assist schools with information about effective use of computers for teaching and learning. Program elements will include information dissemination and exchange, basic and applied research in new instructional applications, and school-based development and test of cost-effective applications.

This recent Administration initiative will probably be of direct value to Detroit. Earlier this month Superintendent Arthur Jefferson announced plans to place 300 computers in the city's 200-plus lower schools. The cost of approximately $420,000 will be paid by both private contributions and Federal funds. Detroit is providing a prime example of a district

creatively assuming responsibility for improving local education by using all available resources to undertake important initiatives in the school system.

IV. The Detroit School System's Response

Ultimate responsiblity rests with the local school system for assuring quality education for their youngsters. In Detroit, ample evidence exists that program improvement initiatives are already underway.

Detroit has selected and implemented exemplary programs. For instance, at least four nationally recognized programs have been adopted in the Detroit public schools: Student Team Learning, A Chance for Every Child, the Comprehensive School Mathematics Program, and Critical Analysis Thinking Skills.

The attention paid to developing quality in Detroit's educational programs, despite an eroding economic base and great fiscal austerity, seems to have reaped impressive benefits. A major effort initiated by the General Superintendent of Schools, Dr. Arthur Jefferson, was the creation of the "High School Proficiency Program," with the goal of implementing a system of "measurement-driven instruction" in order to improve basic skills instruction in Detroit. As reported in the May 1981 issue of Phi Delta Kappan, the program was successful at involving teachers, administrators, parents, business leaders, representatives of civil organizations, and students in determining the basic reading, writing, and mathematics skills that Detroit students should master.

The development of effective leadership, particularly at the school level, has been shown repeatedly in the school improvement literature to be a major factor associated with successful educational programs. With this precept in mind, another initiative developed in Detroit was the creation of the "Management Academy." Begun in 1979, the "Management Academy" was designed to refine existing leadership skills and develop new skills for those in management positions and for those with identified management potential. In addition to school administrators, Board of Education members, parents, and community persons are invited to participate in "Management Academy" programs.

Other educational improvement activities underway in Detroit are the result of programs initiated by the Michigan Department of Education, such as the "High Needs/Low Resources" school improvement project. This project strives to identify and implement procedures for educational improvement that can be adopted in low-achieving Title I schools, including some in Detroit. While this is a State-sponsored project, some existing Federal resources have been used by the Michigan Department of Education, notably the Title I Technical Assistance Center (TAC). The TAC has prepared three documents for use in the Michigan school improvement effort, all of which focus on instructional and administrative strategies related to educational achievement: Factors Associated with Achievement (an annotated bibliography), Variables That Make a Difference, and a paper describing a general approach to effective implementation of school improvement procedures.

Perhaps as a result of these varied school improvement activities, achievement test scores in Detroit have shown dramatic improvements over the last few years. From 1975 through 1979, the percent of Detroit students mastering over 75 percent of the objectives on the Michigan Assessment Tests has steadily improved in reading (both in grades 4 and 7) and in math. These results are summarized in table 4:

TABLE 4. Percentage of Detroit students mastering more than 75 percent of the objectives of the Michigan Educational Assessment Program

Subject	Grade	1975	1976	1977	1978	1979
Reading	4	24	25.1	29.8	32.2	39.2
	7	31	26.3	34.5	37.9	47.5
Math	4	48.6	48.7	46.6	49.3	63.7
	7	26.2	21.2	16.8	18.5	24

Source: Detroit.

In 1980 the format of Michigan Educational Assessment program tests was changed, but improvement still occurred in Detroit between 1980 and 1981.

V. Conclusion

The strength of American education has been in its local control and diversity. As we have seen, Detroit is no exception to this generalization. Even as its financial situation has become more tenuous, it has been able to improve the level of learning of its students. The Detroit school system has acted vigorously to address its problems and has achieved measurable success.

The Federal Government has an important role in assisting Detroit and all other school systems. The first responsibility is to foster economic growth, which strengthens education's financial base. The President's economic program is designed to do just that by reducing taxes, cutting Federal expenditures, and eliminating unnecessary interference in the economy. The proposed reductions in Federal education funds are an integral part of the Administration's economic recovery program. The limitation of Federal spending is essential for the nation if it is to maintain and strengthen the economic base that supports both the private and the public sector.

In addition, the President's education program is intended to enhance the capacity of State and local education authorities, such as those in Detroit, to deal with the problems they face. Through block grants and regulatory reform, as well as through efforts to develop and disseminate effective educational approaches, the Administration is trying to tailor a constructive Federal presence in education. We believe our efforts in this direction are succeeding.

Senator STAFFORD. The Chair is about to adjourn the meeting. We do want to thank Dr. Jones for his appearance here this morning and Senator Eagleton for his searching questions.

The committee will stand adjourned, subject to the call of the Chair.

[Whereupon, at 12:36 p.m., the committee recessed, to reconvene at the call of the Chair.]

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